

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25008 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

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Bijay Shankar son of Late Kishundeo Narayan resident of Nasariganj, Pathan Toli, Belthar, Biscuit factory Mor, P.S. - Danapur, District - Patna; presently residing at Gaighat, Dachhini Gali, P.S. - Alamganj, District - Patna.

.... Petitioner

Versus

1. The State of Bihar.
2. Archana Devi wife of Avinash Kumar @ Baharan D/o Shivnath Prasad, resident of Chelitar, P.S. Alamganj, District - Patna; at present residing address, C/o Mamta Devi, wife of Diwali Prasad, Mohalla - Chalitar, P.S. - Alamganj, District Patna.

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Jagdhar Prasad, Advocate

For the Opposite Party/s : Mr. Rana Randhir Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 01-12-2015

By way of the present application under Section 482 of the Code of Criminal Procedure, 1973, the petitioner seeks quashing of the notice dated 06.04.2015 passed by the learned Judicial Magistrate, 1st Class, Aurangabad in MHL (D.V.) No. 5/ 15/ Tr. No. 2083 of 2015, whereby and whereunder the petitioner has been directed to appear either in person or through his counsel

before the learned Magistrate on 22nd April, 2015.

2. Learned counsel for the petitioner has submitted that the complaint made by opposite party no. 2 is absolutely false. As a matter of fact, no demand of dowry was ever made from her and she was never subjected to any cruelty at her matrimonial home. It has further been contended that the petitioner resides at Patna City and the instant complaint has been filed in Aurangabad just in order to humiliate and harass the petitioner. He has further contended that opposite party no. 2 has also filed a complaint case under Section 498-A of the Indian Penal Code against the petitioner and his relatives before the learned ACJM, Patna City.

3. Learned counsel for opposite party no. 2 has submitted that there is no merit in this application. The opposite party is presently residing at Aurangabad and the Court of Magistrate at Aurangabad has jurisdiction to entertain an application under Section 27 of the Protection of Women from Domestic Violence Act, 2005 (for short 'the Act').

4. I have heard respective counsel for the parties and perused the record.

5. Section 27 of the Act deals with jurisdiction of the Court which reads as under :-

“27. **Jurisdiction.**— (1) The Court of Judicial

Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which-

(a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or

(b) the respondent resides or carries on business or is employed; or

(c) the cause of action has arisen,
shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

(2) Any order made this Act shall be enforceable throughout India.”

6. It would be apparent from perusal of sub-clause (a) of Clause (1) of Section 27 of the Act that Judicial Magistrate, 1st Class within the local limits of which the person aggrieved permanently or temporarily resides or carry on business or is employed, has been conferred with jurisdiction to entertain a complaint under the Act. In that view of the matter, the Judicial Magistrate at Aurangabad did not lack jurisdiction to issue notice to the petitioner of the present case. So far as the merit of the case is concerned, it would be open for the petitioner to appear before the learned Magistrate and put forth his defence. At this stage, it would not be appropriate for this Court to enter into the merits of the case.

7. In view of discussion made, hereinabove, the application being devoid of any merit, is hereby dismissed.

(Ashwani Kumar Singh, J.)

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