

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.38977 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- NAWADA

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1. Manoj Vishwakarma, Son of Late Sukhdeo Vishwakarma, Resident of Mohalla Heavy Water Colony, Danteshwar, Pratap Nagar, Quarter No.EO/53, District Barauda (Gujrat)
 2. Shyama Devi, Wife of Late Sukhdeo Vishwakarma, Resident of Mohalla Heavy Water Colony, Danteshwar, Pratap Nagar, Quarter No.EO/53, District Barauda (Gujrat)
 3. Ashok Vishwakarma, Son of Late Sukhdeo Vishwakarma
 4. Bhinee Devi, Daughter of Late Sukhdeo Vishwakarma
 5. Reeta Vishwakarma, Wife of Ashok Vishwakarma
All are Resident of Mohalla Shyampark, Extention Apposite Modern Industries Sahibawad, District Gajiyabad (U.P.)
 6. Uma Shankar Vishwakarma @ Shiv Shankar Vishwakarma, Son of Late Daho Mistry, Resident of Village Fulka Gumati Jamalpur, P.S. Akbarpur, District Munger

.... Petitioner/s

Versus

1. The State of Bihar
2. Chanda Vishwakarma, Wife of Manoj Vishwakarma, Daughter of Kali Mistri, Resident of Mohalla Ram Nagar (Manger Bigha), Near Circuit House, Nawada, P.S. & District Nawada

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Krishnadeo Raj, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 12-09-2017

The petitioners are accused in Complaint Case No.1134 of 2010, Trial No.2352 of 2010, pending in the court of S.D.J.M., Nawada and they have filed this application seeking quashing of order dated 08.08.2011, passed by the said court whereby cognizance of the offence under Section 498A of the Indian Penal Code has been taken against all accused persons and summons have been issued against all petitioners to stand trial in this case.

2. A short fact giving rise to the complaint is that the Chanda



Vishwakarma, opposite party no.2-complainant, was married with Manoj Vishwakarma on 13.12.2002. Just after marriage, all accused persons started torturing her to realize further demand of Rs.1,00,000/- as dowry. Whenever she protested, she was assaulted by the accused persons. The intensity of torture increased after her husband getting into Central Government service. On 04.09.2010, all accused persons assaulted her with lathi and ousted the complainant from matrimonial home and she submitted written information to the Officer-in-Charge of Barauda and she also went to the concerned police station but the case was not registered.

3. Learned counsel for the petitioners submits that S.D.J.M., Nawada has got no jurisdiction to do any enquiry or trial in this case as no part of the occurrence was committed within the territorial jurisdiction of Nawada. Further submission is that when the husband of the complainant filed a divorce suit being Case No.42 of 2010 before the Civil Judge Court, Vadodra, the present complaint has been filed. Learned counsel places reliance in the case of *Bhura Ram & Ors. Vs. State of Rajasthan & Anr.*, reported in 2008 (3) PLJR 367 (SC) and *Y. Abraham Ajith & Ors. Vs. Inspector of Police, Chennai & Anr.*, reported in (2004) 8 SCC 100.

4. However, none appeared on behalf of opposite party no.2 but the learned APP appearing on behalf of the State submits that there is no illegality in the impugned order.

5. Having gone through the rival contentions of both sides and on perusal of record especially the complaint petition, the Court finds that the place of occurrence is not mentioned in any of the pragraphs of the



complaint rather one paragraph discloses that on 04.09.2010, she was assaulted by all accused persons at Vadodra but wrongly spelt as Barauda. Even the addresses of the accused persons mentioned in the complaint is of Gujarat and there is no allegation that any demand or torture was committed at the parental home of the complainant situated at Nawada. Ordinarily place of enquiry and trial is held by a court within whose local jurisdiction the offence was committed. Sections 177, 178 and 179 Cr.P.C. deal with the jurisdiction of the criminal courts relating to enquiries and trials. In the present case, as no part of alleged offence is taken to have occurred within Nawada jurisdiction, so the court of S.D.J.M., Nawada has got no jurisdiction to make enquiry and trial in the present matter. Hence, the entire criminal proceeding inclusive of the cognizance order dated 08.08.2011, passed in Complaint Case No.1134 of 2010, Trial No.2352 of 2010, by learned S.D.J.M., Nawada is quashed. However, the complainant may file the complaint with the court having proper territorial jurisdiction in the matter.

6. Accordingly, this application stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.09.2017
Transmission Date	15.09.2017

