

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.37579 of 2011

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

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1. Balmiki Yadav

2. Ramjee Yadav

Both sons of Late Suman Yadav @ Biyas Yadav

3. Laxmi Devi W/O Ramjee Yadav

4. Pappu Yadav

5. Ajay Yadav

6. Rajeev Yadav

All sons of Ramjee Yadav

7. Babita Devi W/O Pappu Yadav

All residents of village- Lakhochak, P.S.- Chanan, District- Lakhisarai

.... Petitioner/s

Versus

1. The State Of Bihar

2. Anitya Devi, W/O Balmiki Yadav , D/O Rameshwar Yadav, Resident of
Mohalla- Bengali Par, P.S.- Sheikhpura, District- Sheikhpura

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bharat Lal, Advocaee,
Mr. Rabindra Kumr, Advocaee.

For the Opposite Party/s : Mr. Md. Mustaque Alam, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 03-08-2017

Heard learned counsel for the petitioners as well as learned

A.P.P. for the State. None appears on behalf of the O.P. No. 2.

2. The petitioners have filed this application, under Section
482 of the Cr.P.C., for quashing order dated 20.05.2011 passed by the
Chief Judicial Magistrate, Sheikhpura in Complaint Case No. 76C of
2011 whereby he has taken cognizance of offence under Sections 325



and 498A of the Indian Penal Code and issued summons to them to stand trial.

3. The allegation, as levelled in the complaint petition, in brief, is that complainant was married with the petitioner no. 1 six years back, but after marriage, accused persons used to torture and harass her and the specific allegation levelled by her is that in the year 2010 in the month of March, Balmiki Yadav, Laxmi Devi and Ramjee Yadav after holding her thrashed her head against wall. She informed her father, who came and took her along with him. Several times Panchayati was held but they are not ready to take back her in matrimonial house.

4. Learned counsel for the petitioners submits that there is no specific allegation against the petitioner nos. 4 to 7 and except one instance of assaulting the complainant in the year 2010, there is no other allegation of assault and torture even against petitioner nos. 1, 2 and 3, who are husband, elder brother of the husband of the complainant and his wife. It is also submitted that there is no allegation of any demand of dowry made by the accused persons rather in query to the court's question, she admits that she denied to do the household work, therefore, she was assaulted. Learned counsel submits that Chief Judicial Magistrate, Sheikhpura had no jurisdiction to take cognizance of offence because not a part of alleged occurrence



was committed within the territorial jurisdiction of Sheikhpura. In support of his contention, learned counsel placed reliance in a case of *Y. Abraham Ajith & Ors. v. Inspector of Police, Chennai & Ors.* reported as (2004) 8 SCC 100 and of *Bhura Ram and Ors. v. State of Rajasthan & Ors.* reported as 2008(3) PLJR 367 SC. He also placed reliance in the case of *Preeti Gupta & Anr. vs. State of Jharkhand & Anr.* reported as 2010(4) PLJR 36 SC, wherein the Hon'ble Supreme Court has observed "allegations of the complaint are required to be scrutinized with great care and circumspection".

5. Learned A.P.P. also concedes that no part of the alleged occurrence has been committed within the territorial jurisdiction of Sheikhpura.

6. Having considered rival submissions and on perusal of record, it is explicit on the face of the allegation regarding absence of demand of dowry. The act of cruelty in context of offence under Section 498A is defined in Section 498-A of the Indian Penal Code, which reads as follows:

"498-A. Husband or relative of husband of a woman subjecting her to cruelty.- However, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.- For the purpose of this section, "cruelty" means-

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or



danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

7. In absence of any demand of dowry if the husband or his relative subject a woman to cruelty by any wilful conduct, which must be of such nature and magnitude that would likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health whether mental as well as physical of the woman. However, in the present case, only one instance of assault to complainant by three accused persons i.e., husband, his brother and his brother's wife, is alleged. In reply to the query of the court's question, during examination of the complainant, she admits that they used to assault her for not doing household work. In case of torture of a woman not related with realization of further demand of dowry must be of serious nature causing grave injury or likely to drive the woman to commit suicide. So in view of the fact as alleged in the complaint even taking into consideration in entirety on its face value, no case under Section 498-A of the Indian Penal Code is made out. Therefore, the question of territorial jurisdiction becomes redundant though obviously it is evident from allegation that no a part of the occurrence



alleged to have happened at the territorial jurisdiction of Sheikhpura, so continuation of criminal proceeding in the matter will be abuse of process of the court.

8. Hence, the entire criminal proceeding including cognizance order dated 20.05.2011 passed in Complaint Case No. 76C of 2011 pending in the court of learned Chief Judicial Magistrate, Sheikhpura is hereby set aside. In the result, this application stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
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