

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12180 of 2014

Arising Out of PS.Case No. -1607 Year- 2012 Thana -VAISHALI COMPLAINT CASE District- VAISHALI
(HAJIPUR)

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UPENDRA RAI S/O LATE BRAHMDEO RAI RESIDENT OF VILLAGE -
RAHAR - DIYARA, P.S. SONEPUR, DISTT. - SARAN AT CHHAPARA.

.... PETITIONER/S

VERSUS

1. THE STATE OF BIHAR.
2. MEENA DEVI W/O UPENDRA RAI PRESENTLY RESIDING AT
VILLAGE AND POST - HILALPUR, P.S. INDUSTRIAL AREA, DISTT. –
VAISHALI.

.... OPPOSITE PARTY/S

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Appearance:

For the Petitioner/s : MR. MAHENDRA THAKUR, ADV.
For the Opposite Party/s : MR. SANJAY KUMAR, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
CAV ORDER

Date: 12-01-2017

Sole petitioner Upendra Rai has challenged the order dated 16.11.2012 passed by the SDJM, Vaishali at Hajipur in Complaint Case No.C1-1607 of 2012, "*Meena Devi vs. Upendra Rai & Ors.*" whereby and whereunder petitioner along with others has been summoned to face trial for an offence punishable under Section 498A IPC, 4 of Dowry Prohibition Act.

2. Because of the fact that basically it relates with marital discord on account thereof, this Court had given so many adjournments even after referring the matter to High Court Mediation and Conciliation Centre, unfortunately, by the action of the parties the desirability in getting revival of conjugal life could not restored. Lastly, the matter has been heard on merit.

3. The O.P. No.2, Meena Devi filed complaint petition narrating the event that she was married with Upendra Rai about six years ago. At the time of marriage her parents had given cash appertaining to



Rs.51,000/-, ornaments, furniture, household articles appertaining to rupees one lac. After marriage, she came to her Sasural where she stayed. One month after the stay, the accused persons began to harass her on the score that at the time of marriage her parents had not fulfilled their desire and so, they coerce to bring one T.V., motorcycle and cash appertaining to rupees one lac to do business. As, complainant protested, she was being regularly assaulted. Sometimes foods were not supplied. She conveyed her miseries to her parents whereupon her father rushed, convened panchayati wherein the accused persons undertook to keep the complainant in congenial, peaceful, pleasant atmosphere but at each occasion, after due interval, she was treated in same manner and lastly, after snatching all her belongings, she was kicked out from her Sasural. After her arrival at *Naihar*, she had disclosed her woe to her parents, brother who took her to police station but as the police declined to register a case instructing to file complaint case, on account thereof, the same has been filed.

4. The aforesaid complaint was sent to the court of SDJM under Section 192 of the Cr.P.C. by the learned Chief Judicial Magistrate, Vaishali at Hajipur for holding an inquiry under Section 202 of the Cr.P.C. and after concluding the same, the learned lower court by the order impugned summoned the petitioner and others on account thereof, challenged the same under instant petition.

5. The learned counsel for the petitioner challenge the order impugned on sole ground of lack of jurisdiction. To substantiate such plea, it has been submitted that from narration of the complaint petition as well as statement of the witnesses, it is evident that whatever allegation has been attributed by the complainant which she faced during her stay at her Sasural which lies within the original jurisdiction of Saran district and so,



the court of Saran at Chapra is only competent enough to entertain and proceed with the trial. Therefore, the Vaishali court lacks jurisdiction and on account thereof, the order impugned is fit to be set aside. Furthermore, the learned counsel for the petitioner relied upon ***Y. Abraham Ajith and others v. Inspector of Police, Chennai and another*** reported in ***AIR 2004 SC 4286***, ***Ramesh Kumar Srivastava & Anr. v. State of Bihar & Anr.*** reported in **2009(2) East. Cr.C 419**, ***Mumtaz Bano Arzoo & Ors. v. State of Bihar & Anr.*** reported in **2010(1) East. Cr.C 243**, ***Santokh Singh v. State of Jharkhand & Anr.*** reported in **2010(1) East. Cr.C 154**, ***Amarendu Jyoti & Ors. v. State of Chhattisgarh & Ors.*** reported in **2015(1) East. Cr.C 231 (SC)**, ***Avinash Kumar Singh @ Avinash Kumar & Ors. v. The State of Bihar & Anr.*** reported in **2015(4) East. Cr.C 738 (Pat)**, ***Manoj Yadav @ Manoj Kumar Yadav & Ors. with Raj Kumar Yadav @ Raj Kumar-1 & Ors. v. The State of Jharkhand & Anr.*** reported in **2015(4) East. Cr.C 741 (Jhr)**, and submitted that consistent view happens to be that the offence of 498A IPC is not a continuing offence therefore, the prosecution should be launched at the place within which area the offence has been alleged. As, the offence has been alleged to have taken place at the matrimonial place lying within original jurisdiction of Saran at Chapra, on account thereof, prosecution having launched at Vaishali at Hajipur appears to be misconceived as well as non-maintainable, consequent thereupon the order impugned is fit to be set aside.

6. Learned Additional Public Prosecutor along with learned counsel for the O.P. No.2 have submitted that no infirmity is found in the order impugned, on account thereof did not require any sort of inference. Furthermore, it has been submitted that the learned lower court after due inquiry, found a prima facie case whereupon took cognizance of an



offence and summoned the petitioner along with others and so, for the present, it should not be nullified on the factum of lack of jurisdiction. Furthermore, also submitted that the offence being continuing one, hence court of Vaishali at Hajipur has got jurisdiction to entertain the complaint and in likewise manner has jurisdiction to conduct trial.

7. Before coming to the jurisdictional avenue trial having been conducted at different place by a competent court would not nullify the finding as is evident from the spirit of Section 462 of the Cr.P.C. and for better appreciation, the same is quoted below:

“462. Proceedings in wrong place.- No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceedings in the course of which it was arrived at or passed, took place in a wrong sessions division, district, sub-division or other local area, unless it appears that such error has in fact occasioned a failure of justice.”

8. Apart from this in Krishna Kumar Variar v. Share Shoppe reported in **2010 Cr.L.J. 3848**, it has been held:

“5. In our opinion, in such cases where the accused or any other person raises an objection that the Trial Court has no jurisdiction in the matter, the said person should file an application before the Trial Court making this averment and giving the relevant facts. Whether a Court has jurisdiction to try/entertain a case will, at least in part, depend upon the facts of the case. Hence, instead of rushing to the higher Court against the summoning order, the concerned person should approach the Trial Court with a suitable application for this purpose and the Trial Court should after hearing both the sides and recording evidence, if necessary, decide the question of jurisdiction before proceeding further with the case.”

9. Now coming to desirability of the prosecution under Section 498A of the IPC, Section 198A of the Cr.P.C. deals with the same and prescribes a non-ostensible clause in following:

“198A. Prosecution of offences under section 498A of the Indian Penal Code

No Court shall take cognizance of an offence



punishable under section 498A of the Indian Penal Code (45 of 1860) except upon a police report of facts which constitute such offence or upon a complaint made by the person aggrieved by the offence or by her father, mother, brother, sister or by her father's or mother's brother or sister or, with the leave of the Court, by any other person related to her by blood, marriage or adoption."

10. Section 14 of the Cr.P.C. marks jurisdiction of the Judicial Magistrate in following manner:

"14. Local Jurisdiction of Judicial Magistrates. - (1) Subject to the control of the High Court, the Chief Judicial Magistrate may, from time to time, define the local limits of the areas within which the Magistrates appointed under section 11 or under section 13 may exercise all or any of the powers with which they may respectively be invested under this Code:

[Provided that the Court of a Special Judicial Magistrate may hold its sitting at any place within the local area for which it is established.]

(2) Except as otherwise provided by such definition, the jurisdiction and powers of every such Magistrate shall extend throughout the district

(3) Where the local jurisdiction of a Magistrate, appointed under section 11 or section 13 or section 18, extends to an area beyond the district, or the metropolitan area, as the case may be, in which he ordinarily holds Court, any reference in this Code to the Court of Session, Chief Judicial Magistrate or the Chief Metropolitan Magistrate shall, in relation to such Magistrate, throughout the area within his local jurisdiction, be construed, unless the context otherwise requires, as a reference to the Court of Session, Chief Judicial Magistrate, or Chief Metropolitan Magistrate, as the case may be, exercising jurisdiction in relation to the said district or metropolitan area."

11. Chapter XIII of Cr.P.C. in clear tone identify the place of inquiry or trial to be conducted by the Magistrate or Court of Sessions, which in ordinary course should be by a court within whose local jurisdiction offence is committed, however has got certain exceptions so prescribed thereafter.

12. The aforesaid provisions stood since before, never been before considered even after introduction of 498A IPC did not speak with



regard to territorial jurisdiction nor there happens to be any specific provision persisting identifying Section 498A IPC not to be a continuing one. Basically it relates with own perception and that has to be adjudged in the background of facts of each case, as narrated and placed before the court.

13. Whenever there happens to be controversy with regard to mode of construction of particular statute in connection with its appreciation regarding its application, the same has been taken into consideration in ***Pawan Kumar and others v. State of Haryana*** reported in ***AIR 1998 SC 958*** and for better appreciation, the relevant paras are quoted below:

“**13.** When words in statute are referable to more than one meaning, the established rule of construction is found in Heydon’s case (1584) 76 ER 637 also approved by this Court in *Bengal Immunity Co. Ltd. v. State of Bihar*, AIR 1955 SC 661 (674). The rule is to consider four aspects while construing an Act:

[a] what was the law prior to the law which is sought to be interpreted:

[b] what was the mischief or defect for which new law is made:

[c] what is the remedy the law now provides; and

[d] what is the reason of the remedy.

14. The Court must adopt that construction which, “suppresses the mischief and advances the remedy.”

14. Because of the fact that during stay of bride at the place of groom, her marital place an unfortunate event is faced when she is subjected to harassment as well as cruelty for the purpose of procurement of the dowry or other article from her parental place on account thereof, to put safeguard upon her interest, Section 498A IPC has been introduced



by way of an amendment under the IPC. So, introduction of Section 498A happens to be benevolent one for the protection of the bride. The Hindu Marriage Act did not prescribe any provision nor recognizes shifting of bride to the place of groom, that means to say at her Sasural but is governed by a precedent, custom, rituals which is universally acknowledged and could be taken under judicial notice thereof unless and until contrary is proved identifying place of groom to be the place of residence after marriage and the reason behind is that after marriage, a bride became part and parcel of groom's family, her welfare is found infused with the welfare of the groom's family, she is to bear a child paving a way of inheritance. Thus, the bride is expected in normal phenomenon to stay at her matrimonial place unless and until some other circumstance so visualize and for that, so many contingency are responsible one of it being ousted thereof on account of cruelty or harassment for procurement of dowry. Therefore, depriving the bride her legal, social, religious, customary right by not allowing her to stay at her matrimonial place, would compel the bride to face mental agony, and such event would not warrant continuing offence appears to be pivotal question, to be empowered. Therefore, proper recognition to her at the place of her Sasural where she is to live with full dignity and honour and further, should not fell victim of an evil of the society on the score of demand of dowry or unrecognized lust of Sasuralwala, Section 498A of the IPC has been introduced. It is also found that considering the gradual rise in causing death of a female at her Sasural on that very score within seven years from the date of marriage has been viewed seriously and for that necessary amendments have been brought up under the Indian Evidence Act as well as Penal Code subsequently. Therefore, the aim and ambit of introduction of Section 498A IPC as it reveals, happens to be in



favour of bride in order to protect herself and so interpretation of Section 498A of the IPC should be viewed accordingly.

15. If the bride did not accede with the demand for which she is forced to physical as well as mental torture, harassment at her Sasural, she is being thrown from her Sasural forcing her to stay away therefrom, sometimes at her Maika and sometimes may be at different place and whether this event could be perceived an outcome of continuing offence, whereunder bride is found illegally denied to exercise her legal, customary right by having her stay at her Sasural and more recently, under Domestic Violence Act the aforesaid theme has been perceived whereunder right of residence has duly been acknowledged apart from others and in likewise manner, asking for maintenance for which there happens to be absence of any condition for drawing any kind of legal proceeding at the place where she at present resides.

16. In ***Gananath Pattnaik vs. State of Orissa*** reported in ***2002(2) PLJR 83(SC)***, cruelty in terms of Section 498A IPC has been explained in following way:

“6. We do not agree with the argument of the learned counsel for the appellant that even on proof of the aforesaid circumstances, as noticed by the trial court, no case was made out against the appellant as, according to him, those facts even proved do not constitute cruelty for the purposes of attracting the provisions of Section 498A of the Indian Penal Code. Cruelty for the purposes of aforesaid section has been defined under the Explanation of the Section to mean:

“(a) any willful 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. The concept of cruelty and its effect varies from



individual to individual also depending upon the social and economic status to which such person belongs. "Cruelty" for the purposes of constituting the offence under the aforesaid section need not be physical. Even mental torture or abnormal behaviour may amount to cruelty and harassment in a given case."

17. In *Arun Khanna vs. The State of Bihar and another*

reported in **1994(1) PLJR 513**, it has been held:

"7. Section 498A Indian Penal Code provides for punishment to husband or relative of husband of a woman subjected to cruelty. Explanation appended to the section defines 'cruelty' to mean:

"(a) any willful 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."

A bare perusal of the provision would indicate that if a person is found guilty of any willful conduct which is of such 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 guilty of an act of harassment relating to demand for any property under Section 498A. Reading of the complaint leaves no room for doubt that the allegations made therein do *prima facie*, constitute the ingredients of the said offence. The only question is regarding territorial jurisdiction or the place of enquiry or trial.

8. In the instant case, the complainant has alleged that by reason of the conduct of the accused persons, she was forced to leave her matrimonial home. If the act of cruelty had not been committed and there was no danger to her life and health, there perhaps would have been no occasion for her to leave the house. She has also alleged that as a consequence of the acts of the accused persons she is suffering mental agony at Dhanbad. In other words, the wrong or the offence is still continuing. In my opinion, the term 'cruelty' in Section 498A has to be given an extended meaning. If the woman continues to suffer the mental agony or torture as a result of the acts done to her by the husband or his relatives forcing her to leave the matrimonial home, it must be said that the cruelty is continuing. While construing the question of jurisdiction with respect to offence under section



498A one should not forget the social background and the object for which the said offence has been created. This new penal provision is intended to provide benefit and relief to the females who constitute the weaker section of the society, the destitutes who have been turned out of the husband's home. If they are to be compelled to file the complaint only at the place where the act was committed, that is, at the place where the husband/in-laws reside, she may not be able to prosecute the complaint properly which will not serve the desired object. A learned Single Judge of this Court in the case of **Sardar Harpal Singh** reported in 1991 Eastern India Criminal Cases 756, relied upon by **Mr. M.M. Benerjee** on behalf of the opposite party, has taken the same view and I find myself in respectful agreement with the same."

18. In **Jagdish and others vs. State of Rajasthan and another** reported in **1998 CRI.L.J. 554**, it has been held:

"7. If repeated demand for dowry is made and harassment is meted out to a woman which may be physical or mental is an act of cruelty. It is not necessary that the husband or his relatives must be present at the time when the house wife is subjected to cruelty. If their act or conduct, omission or commission is of such a nature which results in mental and physical harassment it will amount to an act of cruelty to a woman and it is immaterial that the woman is living at that relevant time at her matrimonial home or at her parents house. The offence under Section 498A is a continuing offence and if the act of cruelty continues even while, the woman is living at her parents house, the offence is triable by both the Courts in whose territorial jurisdiction the act of continuing offence of cruelty has been committed at matrimonial home or the parents house. In the instant case prima facie it has been shown that Narayani was subjected to cruelty at her matrimonial home Binjbayala and she was compelled to leave the matrimonial home due to the threats given by the petitioners. It has been further stated that when she was living at her parents house the petitioners insisted on their demand for Rs. one lac failing which she will have to remain at her parents house. This prima facie at this stage shows that the petitioners continued to cause harassment to Narayani with a view to coerce her to satisfy their unlawful demand i.e. to compel her to live at her parents house. Therefore, prima facie it appears that she has been subjected to cruelty at Manak Khedi within the definition of 'cruelty' given in the explanation of Section 498A I.P.C. On taking into consideration the F.I.R. and the papers under investigation i.e. the



statements of witnesses, it appears that act of maltreatment and humiliation by the petitioners continued even while Narayani was residing with her parents. Therefore, I am of the view that Clause (c) of Section 178, Criminal Procedure Code is clearly attracted and the learned Additional Chief Judicial Magistrate, Suratgarh has also territorial jurisdiction to try the case against the petitioners under Section 498A, I.P.C. which is a continuing offence.

10. There is one more important aspect of the case that when complainant wife was maltreated and subjected to cruelty so much so that she feared for her life due to the threats given by the petitioners, the consequences of all the above acts of the petitioners ensued at Manak Khedi that she was compelled to leave her matrimonial home and to reside with her parents at Manak Khedi. She was not being called back to force her and parents to fulfil the unlawful demand of dowry. Section 179, Cr.P.C. says that where an act is an offence by reason of anything which has been done and all the consequences which have ensued, the offence may be enquired by a Court within whose local jurisdiction such thing has been done or such consequence has ensued. I am of the view that Section 179, Cr.P.C. is also attracted to the facts and circumstances of this case and the Additional Chief Judicial Magistrate, Suratgarh has clearly territorial jurisdiction to try the offences.”

19. In ***Bimlesh Kumar Saraf & Ors. vs. Smt. Chetna Saraf &***

Anr. reported in ***1997(2) PLJR 266***, it has been held:

“7. Apparently in the complaint petition, allegation was levelled that the complainant was assaulted and tortured in various ways so that her relation may be compelled to fulfil the unlawful demand of dowry as alleged in the complaint petition and the complainant was also driven out of the matrimonial house on 17.7.90 and she was forced to live at Katras in the house of her brother. No doubt u/s 177 Cr.P.C. which is the jurisdiction chapter of the criminal trial, every offence shall ordinarily be enquired into and tried by a court within whose local jurisdiction it was committed. But Section 179 Cr.P.C. which is a special provision, only to meet such contingency, and to mitigate the hardship of the weaker sections, a provision has been made that where an act is an offence by reason of anything which has been done and the consequence which has ensued, the offence may be enquired into or tried by a court within whose local jurisdiction such thing has been done or such consequence has ensued. So the true test will be that the consequence must be an essential ingredient of the offence and something



which forms part and parcel of it or completes the offence; meaning thereby that the consequence must be so iner-linked that the consequence is the direct result of the act and if the wife is compelled due to torture and harassment to leave the matrimonial house, then it is the direct result of the alleged action of the petitioners.

Furthermore the complainant though living at Katras within the jurisdiction of the Dhanbad court, she is under the constant agony and mental torture is also there and as she was forced to leave the matrimonial house, the harassment is continuing to compel her relation to fulfil the dowry demand. In that view of the matter, even though the complainant is in Katras, still she is constantly under mental agony and also under constant harassment and cruelty, so that the illegal demand of the petitioners can be fulfilled by her relation. In that view of the matter, for the illegal action done at Muzaffarpur, a direct consequence has ensued even at Katras and such offence is also a continuing offence because the complainant is continuously feeling harassment and torture though the mental harassment is also there.

8. A Bench of this Court in **Arun Khanna vs. State of Bihar** reported in 1994 Vol. 1 PLJR 513 also took a similar view and in that case also the allegation of torture and harassment and also cruelty was levelled for the period when the wife was in Amritsar in her matrimonial house and she was forced to leave the matrimonial house and to live at Dhanbad in the house of her parents and from there she filed a case u/s. 498 and 406 IPC and it was held by a Bench of this Court that the complaint case is maintainable before the Dhanbad court also in view of the provision of Section 179 Cr.P.C.

9. Furthermore the Calcutta High Court in the case of Motahar Hussain reported in 1995 C Cr.L.R. (Cal) 43 also held that the offence u/s. 498 IPC is a continuing offence and the court where the complainant resides had the jurisdiction to proceed with the case. So far the case of Andhra Pradesh High Court, that is, **Rajaram case** (supra) as relied upon by the learned lawyer for the petitioner, is not applicable for the reason that in that case it was held that the allegation that her husband and sister in-law visited the place where the wife was residing, had not been substantiated. Moreover, the provision of Section 179 Cr.P.C. as discussed above had not at all been considered in that case."

20. In **Pabitra Chaudhary & others vs. The State of Bihar & others** reported in **2007 (Suppl) PLJR 57** it has been held:

"8. On behalf of the petitioners reliance has been



placed in a case of **Y. Abraham Ajith and Ors. vs. Inspector of Police, Chennai and Anr.** [2004(8) SCC 100]. In this decision from the facts it would appear that all the alleged offences had taken place at Nagercoil and none at Chennai. It was further held that normally the general rule is that ordinarily every offence should be enquired into and tried by a court within whose local jurisdiction it was committed. This rule is, however, subject to several exceptions and one of them is contained in Section 178(c) of the Code which provides that where the offence is a continuous one it must be continued to be committed in more local areas than one, then courts of all those areas will have jurisdiction to try any such offence. In this case, however, no offence was committed at Chennai and, therefore, the Hon'ble Supreme Court has held that this is not a case of continuing offence so as to attract the provision of Section 178(c) of the Code.

9. In this connection a reference may also be made to the case of **Sujata Mukherjee (Smt.) vs. Prashant Kumar Mukherjee** [(1997)5 SCC 30]. In this case the offence was continued to be committed at the place of her parents where she came away from her Sasural. It was held that since the offence was a continuing one the courts at her father's place will also have jurisdiction to try the offence by virtue of Section 178(c) of the Code.

10. The question what could constitute a continuing offence had come up for consideration before the Hon'ble Supreme Court in the case of **State of Bihar vs. Deokaran Nenshi and Anr.*** [(1972)2 SCC 890]. It's paragraph no. 5 runs as follows:—

"5. A continuing offence is one which is susceptible of continuance and is distinguishable from the one which is committed once and for all. It is one of those offences which arises out of a failure to obey or comply with a rule or its requirement and which involves a penalty, the liability for which continues until the rule or its requirement is obeyed or complied with. On every occasion that such disobedience or non-compliance occurs and reoccurs, there is the offence committed. The distinction between the two kinds of offences is between an act or omission which constitutes an offence once and for all and a act or omission which continues and, therefore, constitutes a fresh offence every time or occasion on which it continues. In the case of a continuing offence, there is thus the ingredient of continuance of the offence which is absent in the case of an offence which takes place when an act or omission is committed once and for all."

11. This definition of a continuing offence has been



quoted with the approval by the Hon'ble Supreme Court in the case of **Manish Ratan and Ors. vs. State of M.P. and Anr.** [(2007)1 SCC 262].

12. In this connection a reference may also be made to the case of **Abdul Nazar Madani vs. State of T.N. and Anr.** [(2000)6 SCC 204]. It was held by the Hon'ble Supreme Court in this case that the purpose of criminal trial is fair and impartial justice uninfluenced by anything. If it appears that was not possible impartially at any place dispensation of justice the appropriate court may transfer the case to another court where it feels that the trial would fair conducive to justice.

13. In the case of **Mohan Baitha & Ors. vs. State of Bihar & Ors.** (2001(2) PLJR (SC)83) from the facts it would appear that F.I.R. was lodged at Bhagalpur under Sections 304B and 406/34 of the Indian Penal Code on receiving a telephone call by the father for the victim that she died at Jahanaganj in U.P. while preparing milk for the child. It was held that in a given case indicating proximity of time, unity or proximity of place, continuity of action and continuity of purpose or design are the factors for deciding whether certain acts form parts of the same transactions or not. Section 221 will be decided on these factors and Section 177 is, therefore, not peremptory in nature nor a complete imbargo.

14. In a recent decision in the case **Kunti Devi & Ors. vs. The State of Bihar** (2007(2) PLJR 43) the learned Single Judge (Navin Sinha, J.) has decided what is meant "ordinary courts in Section 171" which according to him need not be limited to the special provision provided for by law."

21. In **Shankar Prasad Das & Ors. Vs. The State of Bihar &**

Anr. reported in **2003(3) PLJR 813**, it has been held:

"6. I do not find any substance in this submission of Mr. Roy. True it is that in column of place of occurrence the informant has stated that the same had taken place at Deoghar but in the same column she had further stated that occurrence had taken place subsequent thereto. For ascertaining the jurisdiction the allegation made in the first information report has to be seen. In the first information report the informant has clearly stated that on failure of her father to fulfil the illegal demand of dowry, her husband and other family members, who are opposite party nos. 2 to 9 before this Court, after retaining all her ornaments, driven her out from her matrimonial home and since then she is living with her father. Thus the cruelty meted out to the informant still continues at Gaya where she is living with her father. In my opinion, the



allegation made in the first information report reveals continued offence of maltreatment to the complainant at Gaya and as such Gaya court shall have jurisdiction to try the offence. Reference in this connection can be made to a decision of the Supreme Court in the case of Sujata Mukherjee vs Prashant Kumar Mukherjee [(1997) 5 SCC 30]. In the said case in paragraph 7 the Supreme Court has held as follows :

“Despite service being effected on the private respondents, no one has appeared for any of the accused respondents. We have taken into consideration the complaint filed by the appellant and it appears to us that the complaint reveals a continuing offence of maltreatment and humiliation meted out to the appellant in the hands of all the accused respondents and in such continuing offence, on some occasions all the respondents had taken part. Therefore, clause (c) of Section 178 of the Code of Criminal Procedure is clearly attracted. We, therefore, set aside the impugned order of the High Court and directed the learned Chief Judicial Magistrate, Raipur to proceed with the criminal case. Since the matter is pending for long, steps should be taken to expedite the hearing. The appeals are accordingly allowed.”

22. In *Raja Ram Chaudhary @ Raja Ram & others vs. The State of Bihar & another* reported in 2005 (4) PLJR 741 which was filed by petitioners/accused for transfer of the proceeding wherein it has been held:

“5. Section 179 of the Cr.P.C. reads as follows:—
179. *Offence triable where act is done or consequence ensues:* — “When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.”

6. Section 179 Cr.P.C. is in the nature of exception to general rule that every offence shall be inquired into and tried by the court within whose jurisdiction it was committed. This section provides that an act is an offence by reason of section which has ensued, the offence may be enquired into and tried by the court within whose local jurisdiction the act was committed or where the act has ensued where the wife has been forced to leave her husband or the in-laws house



due to torture. Leaving of the house is direct result or consequence of conduct and are integral part of the act done. The complainant was tortured by the accused persons at Patna. She was assaulted and threatened by the accused persons due to which she was compelled to leave her matrimonial house. She was forced to meet unlawful demand of accused persons or to leave her matrimonial house. Lastly the accused persons forced the complainant to leave her matrimonial house. She was driven out of her matrimonial house with her children. All her belongings were taken away by the accused persons. Her father brought her to Bhabhua where she was treated for her mental and physical ailment.

7. Counsel for the opposite party submits that the opposite party no. 2 is residing at Bhabhua and that gives jurisdiction to the Bhabhua court to try such nature of offence as provided under section 179 Cr. P.C. Counsel for

the opposite parties has placed reliance on decisions in the case of **Girdhari Lal Jatana and Ors. vs. The State of Bihar and Anr.**, [1997(1) P.L.J.R. 513] and in the case of **Dr. Animesh Gupta and Anr. vs. The State of Bihar and Ors.** [2004(2) P.L.J.R. 483]. In 1997(1) P.L.J.R. 513 (**Arun Khanna vs. The State of Bihar and Anr.**) it has been held as follows:—

"In the instant case, the complainant has alleged that by reason of the conduct of the accused persons she was forced to leave her matrimonial home. If the act of cruelty had not been committed and there was no danger to her life and health, there perhaps would have been no occasion for her to leave the house. She has also alleged that as a consequence of the acts of the accused persons she is suffering mental agony at Dhanbad. In other words, the wrong or the offence is still continuing. In my opinion, the term "cruelty" in Section 498A has to be given an extended meaning. If the woman continues to suffer the mental agony or torture as a result of the acts done to her by the husband or his relatives forcing her to leave the matrimonial home, it must be said that the cruelty is continuing. While construing the question of jurisdiction with respect to offence under section 498A one should not forget the social background and the object for which the said offence has been created. This new penal provision is intended to provide benefit and relief to the females who constitute the weaker section of the society, the destitute who have been turned out of the husband's home. If they are to be compelled to file the complaint only at the place where the



act was committed, that is, at the place where the husband/in-laws reside, she may not be able to prosecute the complaint properly which will not serve the desired object.”

23. In ***Surendra Nath Choubey & Others vs. The State of Bihar & Another*** reported in ***2007(2) PLJR (HC) 47***, it has been held:

“6. So far the second submission is concerned, the facts alleged in complaint petition would go to show that this case falls under section 179 Cr.P.C. and not under sections 177 or 178 Cr.P.C. Section 179 Cr.P.C. runs as follows:

*"179. Offence triable where act is done or consequence ensues .—*When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done, or such consequence has ensued.”

7. According to paragraph-13 of the fardbeyan-cum-complaint petition, the victim after assault was driven out of the petitioners' house situated in Buxar district. Thereafter, she was compelled to take shelter in her parents house at Chapra. Therefore, consequences of torture ensued at Chapra where the victim was compelled to take shelter after eviction from her *Sasural*. Therefore court of Chapra had also jurisdiction to entertain the case.

8. The above cited apex court decision in this case is not applicable which is apparent from the facts mentioned in paragraph-11 of the judgment. In that very case, the victim voluntarily left her *Sasural* and was not driven out by her in-laws.”

24. In ***Vagish Kumar vs. State of Bihar*** reported in ***2004(4) PLJR 688***, it has been held:

“4. So far question whether the offence under section 498A, I.P.C. was time barred, it has to be examined whether an offence under Section 498A, I.P.C. refers to physical tortures only. The wordings in Section 498A, I.P.C. refers to cruelty to a woman by her husband or his relatives. This cruelty has been explained thus-

“(a) any wilful conduct which is of such a nature as is likely to drive 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."

5. From the aforesaid wordings used in the aforesaid section regarding cruelty meted out to a wife, it is apparent that it is not only the physical tortures, assaults etc. which amount to cruelty. The demand of any property including money persistently will also be included in the mental torture or cruelty being committed upon the wife by the husband or by his family members. The persistent demands, so long as wife remains at the house of her husband or even at the house of her father, will be a continuing cruelty to the wife. In the instance case, the alleged complaint case was filed on 03.07.1996, as stated at paragraph-11 of the quashing application. The alleged divorce suit ended in a judgment on 23.08.1996, as stated in paragraph-9 of the quashing application so apparently divorce suit ended in a decree in favour of the petitioners of this quashing application. The complaint was filed on 03.07.1996 itself and on that date the complainant's daughter was still the wife of her husband Vagish Kumar. The demand of rupees four to five lacs was continuing upto the date when the complaint was filed, as has been stated by the complainant in his complaint petition, and it was under these circumstances that the husband had refused to take back his wife unless his demands were fulfilled, that the complainant was compelled to file his complaint petition so the demand of rupees four to five lacs was a continuing demand and in this view of the matter, when the complaint was filed, the offence of cruelty, as defined under Section 498A, I.P.C., was not yet time barred. So far the allegation that it was the wife herself who had deserted her husband and for which there was a matrimonial suit which ended in a decree in favour of the husband, it is to be noted that, during the course of submission, it was admitted that the divorce decree was still pending in appeal so there was no finality to the judgment of divorce and, hence, the allegation of the husband that he was deserted by his wife, the complainant's daughter, cannot be accepted as the final truth. So the desertion of the complainant's daughter by her husband or the allegation of the husband regarding his desertion by the wife are all disputed facts which can be decided only by the trial Court. This court cannot take into consideration the divorce decree in order to come to a definite conclusion."



25. In *Mohan Baitha & others vs. State of Bihar & Anr.*

reported in **2001 PLJR 83 (SC)** it has been held:

“4. Mr. P.S. Mishra, the learned senior counsel, appearing for the accused persons contended that under Section 177 of the Code of Criminal Procedure, an offence could be inquired and tried by the Court in whose local jurisdiction, it was committed and consequently on the basis of allegations made in the F.I.R. as well as the complaint filed, the incident constituting the alleged offence under Section 304B being at Jahanaganj (Azamgarh) in the State of Uttar Pradesh, the Magistrate at Bhagalpur in the State of Bihar will not have territorial jurisdiction to try the offence. Mr. Mishra also further contended that on the basis of allegations made, no offence under Section 406 IPC can be said to have been constituted. On examining the assertions in the F.I.R. and the complaint as well as on scrutinizing the judgment of the learned Single Judge of Patna High Court, which is the subject matter of challenge, we do not find any substance in either of the contentions raised by Mr. Mishra. So far as the contention relating to the constitution of offence under Section 406 is concerned, we are not required to examine the same, since the accused never assailed the criminal proceedings itself on the ground that no offence under Section 406 IPC can be said to have been committed. The accused merely assailed the territorial jurisdiction of the criminal court at Bhagalpur in relation to offence under Section 304B on the ground that the said offence stood committed in Uttar Pradesh. Section 177 of the Code of Criminal Procedure on which Mr. Mishra relies, uses the expression “ordinarily”. The use of the word “ordinarily” indicates that the provision is a general one and must be read subject to the special provisions contained in the Criminal Procedure Code. That apart, this Court has taken the view that the exceptions implied by the word “ordinarily” need not be limited to those specially provided for by the law and exceptions may be provided by law on considerations of convenience or may be implied from other provisions of law permitting joint trial of offences by the same court (See *Purshottamdas Dalmia vs. The State of West Bengal*, 1962(2) SCR 101, *L. N. Mukherjee vs. The State of Madras*, 1962(2) SCR 116 and *Banwari Lal Jhunjhunwala and Ors. vs. Union of India and anr.*, 1963 Supp. (2) SCR 338). Even the Law Commission in its 41st Report had observed that the general rule laid down in Section 177 is neither exclusive nor peremptory. The learned Single Judge while dismissing the contention



raised by the accused has relied upon Section 220 of the Code of Criminal Procedure and considering the narration of events culminating in the death of Kalpana, which constitutes offence under Section 304B of the IPC, the learned Single Judge has come to a conclusion that there appears to exist a continuity of action to attract sub-section (1) of section 220, and therefore, it cannot be said that the jurisdiction of the Magistrate at Bhagalpur is ousted to try the offence under Section 304B. The High Court also has casually observed that the assertions made prima facie constitute an offence under Section 498A and since the accused has approached the Court even before the Magistrate has applied his mind to the result of the investigation on the basis of the allegations made by the informant/complainant, it would not be appropriate to express any definite opinion on the same. According to Mr. Mishra, from the tenor of the impugned judgment, it can be well imagined that the judgment is rather strained one and has been passed in view of the earlier directions and by no stretch of imagination, the incident constituting the offence under Section 304B can be held to be one falling under Section 220 of the Code of Criminal Procedure, so as to be tried along with the offence under Section 406 at Bhagalpur. It may be noticed that under Section 220 of the Code of Criminal Procedure, offences more than one committed by the same persons could be tried at one trial, if they can be held to be in one series of acts, so as to form the same transaction. The expression "same transaction" from its very nature is incapable of an exact definition. It is not intended to be interpreted in any artificial or technical sense. Common sense and the ordinary use of language must decide whether on the facts of a particular case, it can be held to be in one transaction. It is not possible to enunciate any comprehensive formula of universal application for the purpose of determining whether two or more acts constitute the same transaction. But the circumstances of a given case indicating proximity of time, unity or proximity of place continuity of action and community of purpose or design are the factors for deciding whether certain acts form parts of the same transaction or not. Therefore a series of acts whether are so connected together as to form the same transaction is purely a question of fact to be decided on the aforesaid criteria. Bearing in mind the aforesaid principles and on scrutiny of the narration of events in the F.I.R. as well as the complaint, we do not find any infirmity with the conclusion of the High Court in applying Section 220 of the Criminal Procedure Code to the case in hand and in coming to the conclusion that the jurisdiction of the Magistrate at Bhagalpur cannot be held to have been ousted for the offence under



Section 304B IPC. In the aforesaid premises, we see no merits in this appeal, which accordingly stands dismissed. The interim order of stay stands vacated and the Magistrate is directed to proceed with the matter expeditiously, in accordance with law.”

26. In *Sunita Kumari Kashyap vs. State of Bihar Anr.*

reported in **(2011) 11 SCC 301**, it has been held:

“**8.** Chapter XIII of the Code of Criminal Procedure, 1973 (in short “the Code”) deals with jurisdiction of the criminal courts in inquiries and trials. Sections 177-179 are relevant which are as follows:

“177. Ordinary place of inquiry and trial.—

Every offence shall ordinarily be inquired into and tried by a court within whose local jurisdiction it was committed.

178. Place of inquiry or trial.—(a) When it is uncertain in which of several local areas an offence was committed, or

(b) where an offence is committed partly in one local area and partly in another, or

(c) where an offence is continuing one, and continues to be committed in more local areas than one, or

(d) where it consists of several acts done in different local areas,

it may be inquired into or tried by a court having jurisdiction over any of such local areas.

179. Offence triable where act is done or consequence ensues.—When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a court within whose local jurisdiction such thing has been done or such consequence has ensued.”

From the above provisions, it is clear that the normal rule is that the offence shall ordinarily be inquired into and tried by a court within whose local jurisdiction it was committed. However, when it is uncertain in which of several local areas an offence was committed or where an offence is committed partly in one local area and partly in another or where an offence is a continuing one, and continues to be committed in more than one local area and takes place in different local areas as per Section 178, the court having jurisdiction over any of such local areas is competent to inquire into and try the offence. Section 179 makes it clear that if anything happened as a consequence of the offence, the same may be inquired into or tried by a court within whose local jurisdiction such thing has been done or such consequence has ensued.



9. Keeping the above provisions in mind, let us consider the allegations made in the complaint. On 17-10-2007, Sunita Kumari Kashyap, the appellant herein made a complaint to the Inspector-in-Charge, Magadh Medical College Police Station, Gaya. In the complaint, the appellant, after narrating her marriage with Sanjay Kumar Saini, Respondent 2 herein on 16-4-2000 stated what had happened immediately after the marriage at the instance of her husband and his family members' ill-treatment, torture and finally complained that she was taken out of the matrimonial home at Ranchi and sent to her parental home at Gaya with the threat that unless she gets her father's house in the name of her husband, she has to stay at her parental house forever. In the said complaint, she also asserted that her husband pressurised her to get her father's house in his name and when she denied she was beaten by her husband. It was also asserted that after keeping her entire jewellery and articles, on 24-12-2006, her husband brought her at Gaya and left her there warning that till his demands are met, she has to stay at Gaya and if she tries to come back without meeting those demands she will be killed. It was also stated that from that date till the date of complaint, her in-laws never enquired about her. Even then she called them but they never talked to her.

10. A perusal of the entire complaint, which was registered as an FIR, clearly shows that there was ill-treatment and cruelty at the hands of her husband and his family members at the matrimonial home at Ranchi and because of their actions and threat she was forcibly taken to her parental home at Gaya where she initiated the criminal proceedings against them for the offences punishable under Sections 498-A and 406/34 IPC and Sections 3 and 4 of the DP Act. Among the offences, the offence under Section 498-A IPC is the main offence relating to cruelty by husband and his relatives. It is useful to extract the same which is as under:

"498-A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, 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 purposes 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.”

11. Similar allegations as found in the complaint in the case on hand with reference to the offences punishable under Sections 498-A, 406/34 IPC were considered by this Court in the following decisions.

12. In *Sujata Mukherjee v. Prashant Kumar Mukherjee* (1997)5 SCC 30 a similar issue was considered by this Court and found that clause (c) of Section 178 of the Code is attracted and the Magistrate at wife's parents' place has also jurisdiction to entertain the complaint. In the said decision, wife was the appellant before this Court and the respondents were the husband, parents-in-law and two sisters-in-law of the appellant Sujata Mukherjee. The gist of the allegation of the appellant Sujata Mukherjee was that on account of dowry demands, she had been maltreated and humiliated not only in the house of her in-laws at Raigarh but as a consequence of such events, the husband of the appellant had also come to the house of her parents at Raipur and assaulted her. On behalf of the respondents therein, it was contended before the learned Chief Judicial Magistrate, Raipur that the criminal case was not maintainable before the said learned Chief Judicial Magistrate because the cause of action took place only at Raigarh which was outside the territorial jurisdiction of the learned Magistrate at Raipur. A prayer was also made to quash the summons issued by the learned Chief Judicial Magistrate by entertaining the said complaint of Smt Mukherjee. As the Chief Judicial Magistrate was not inclined either to quash the summons or to transfer the criminal case to the competent court at Raigarh, the criminal revision petitions were filed before the High Court, one by all the five respondents and another by four of the respondents excluding the husband presumably because there was specific allegation against the husband that the husband had also gone to Raipur and had assaulted the appellant and as such the husband could not plead want of territorial jurisdiction. Both the said criminal revision cases were disposed of by a common order dated 31-8-1989 by the High Court holding that the case against the husband of the appellant alone is maintainable and in respect of other respondents related to the incidents taking place at Raigarh, hence, the criminal case on the basis of complaint made by the appellant is not maintainable at Raipur. The said order of the High Court was challenged by the appellant Sujata Mukherjee in this Court. It was submitted that it will be evident from the complaint that the appellant has alleged that she had been



subjected to cruel treatment persistently at Raigarh and also at Raipur and the incident taking place at Raipur is not an isolated event, but consequential to the series of incidents taking place at Raigarh. Therefore, it was contended that the High Court was wrong in appreciating the scope of the complaint and proceeding on the footing that several isolated events had taken place at Raigarh and one isolated incident had taken place at Raipur. This Court basing reliance on Section 178 of the Code, in particular clauses (b) and (c), found that in view of allegations in the complaint that the offence was a continuing one having been committed in more local areas and one of the local areas being Raipur, the learned Magistrate at Raipur had jurisdiction to proceed with the criminal case instituted in such court.

13. Ultimately, accepting the stand of the appellant, this Court held as under: (*Sujata Mukherjee case*(1997)5 SCC 30, SCC p. 32, para 7)

“7. ... We have taken into consideration the complaint filed by the appellant and it appears to us that the complaint reveals a continuing offence of maltreatment and humiliation meted out to the appellant in the hands of all the respondent-accused and in such continuing offence, on some occasions all the respondents had taken part and on other occasion, one of the respondents had taken part. Therefore, clause (c) of Section 178 of the Code of Criminal Procedure is clearly attracted.”

14. In *State of M.P. v. Suresh Kaushal* (2003)11 SCC 126, again in a similar circumstance, considering the provisions of Section 179 with reference to the complaint relating to the offences under Section 498-A read with Section 34 IPC, this Court held as under: (SCC p. 128, para 6)

“6. The above section contemplates two courts having jurisdiction and the trial is permitted to take place in any one of those two courts. One is the court within whose local jurisdiction the act has been done and the other is the court within whose local jurisdiction the consequence has ensued. When the allegation is that the miscarriage took place at Jabalpur it cannot be contended that the court at Jabalpur could not have acquired jurisdiction as the acts alleged against the accused took place at Indore.”

15. Mr S.B. Sanyal, learned Senior Counsel appearing for the respondents fairly stated that there is no dispute about the jurisdiction of the Court at Gaya insofar as against the husband, however, in respect of other relatives of the husband in the absence of any act at Gaya, the said court has no jurisdiction and if at all, the wife has to pursue her remedy only at Ranchi. In support of his contention, he relied on a decision of this Court in *Y. Abraham*



Ajith v. Inspector of Police (2004)8 SCC 100 in particular, SCC para 12 of the said decision which reads as under: (SCC p. 105)

“12. The crucial question is whether any part of the cause of action arose within the jurisdiction of the court concerned. In terms of Section 177 of the Code, it is the place where the offence was committed. In essence it is the cause of action for initiation of the proceedings against the accused.”

16. It is true that Section 177 of the Code refers to the local jurisdiction where the offence is committed. Though the expression “cause of action” is not a stranger to criminal cases, in view of Sections 178 and 179 of the Code and in the light of the specific averment in the complaint of the appellant herein, we are of the view that the said decision is not applicable to the case on hand.

17. Mr Sanyal also relied on a decision of this Court in *Bhura Ram v. State of Rajasthan (2008)11 SCC 103* wherein following the decision in *Y. Abraham Ajith (2004)8 SCC 100* this Court held that “cause of action” having arisen within the jurisdiction of the court where the offence was committed, could not be tried by the court where no part of offence was committed. For the same reasons, as mentioned in the earlier paragraph, while there is no dispute as to the proposition in view of the fact that in the case on hand, the offence was a continuing one and the episode at Gaya was only a consequence of the continuing offence of harassment and ill-treatment meted out to the complainant, clause (c) of Section 178 is attracted. In view of the above reason, both the decisions are not applicable to the facts of this case and we are unable to accept the stand taken by Mr Sanyal.

18. We have already adverted to the details made by the appellant in the complaint. In view of the specific assertion by the appellant wife about the ill-treatment and cruelty at the hands of the husband and his relatives at Ranchi and of the fact that because of their action, she was taken to her parental home at Gaya by her husband with a threat of dire consequences for not fulfilling their demand of dowry, we hold that in view of Sections 178 and 179 of the Code, the offence in this case was a continuing one having been committed in more local areas and one of the local areas being Gaya, the learned Magistrate at Gaya has jurisdiction to proceed with the criminal case instituted therein. In other words, as the offence was a continuing one and the episode at Gaya was only a consequence of continuing offence of harassment and ill-treatment meted out to the complainant, clause (c) of Section 178 is attracted. Further, from the allegations in the complaint, it appears to us that it is a continuing offence of ill-treatment and humiliation meted out to the appellant



at the hands of all the accused persons and in such continuing offence, on some occasions all had taken part and on other occasions one of the accused, namely, the husband had taken part, therefore, undoubtedly clause (c) of Section 178 of the Code is clearly attracted.”

27. Now coming to facts of the case, it is evident that complainant has asserted in specific tone that after assault she was ousted from her matrimonial home, whereupon she took shelter at her maika. Therefore, departure from her Sasural was not voluntarily, rather she was ousted by the accused persons, and on account thereof, staying at her Sasural happens to be not in normal phenomenon rather, on account of deprivation whereupon till her stay at Naihar will consist true continuing offence. The relevant judicial pronouncement as referred above consistently held so.

28. Now coming to the judicial pronouncement having referred by the learned counsel for the petitioner, it is evident that in the facts and circumstances of the case, none is applicable. In ***Y. Abraham Ajith and others v. Inspector of Police, Chennai and another*** reported in ***AIR 2004 SC 4286*** complainant herself deserted her matrimonial house hence the principle decided in that case, happens to be based upon aforesaid facts. Similar situation prevails with ***Amarendu Jyoti & Ors. v. State of Chhattisgarh & Ors.*** reported in ***2015(1) East. Cr.C 231 (SC)***.

29. In ***Avinash Kumar Singh @ Avinash Kumar & Ors. v. The State of Bihar & Anr.*** reported in ***2015(4) East. Cr.C 738 (Pat)*** though the facts of the case resembles, but after going through the same, it is evident that neither the earlier decisions as referred above were considered nor the consequence of ousting from matrimonial house has been considered, as is evident from para-7.

“However, here, under the facts and circumstances of the case, the occurrence alleged to have taken place either at Delhi or at



Purnia, as per the allegation made, hence, as per Section 177 of the Criminal Procedure Code the local area in which the occurrence took place has jurisdiction as well as the exception as under Section 178 of the Criminal Procedure Code that the area where the part of the occurrence, alleged, occurred. Hence it can well be said that Court at Delhi and Purnia has got jurisdiction as per Section 177 and 178 of the Criminal Procedure Code. However, the allegation is that the demands were made at Delhi first then the victim was taken to Purnia where further demand was made and even the victim was assaulted and abused, her belongings were seized at her *sasural* in Purnia and, then, she was driven out of the *sasural* and, then, she came to *naiher* at Katihar. However, no act alleged either of any omission and commission at Katihar has been mentioned in the entire complaint. There is no allegation whatsoever alleged at her *naiher* in Katihar.”

30. Likewise is the statues of **Manoj Yadav @ Manoj Kumar Yadav & Ors. with Raj Kumar Yadav @ Raj Kumar-1 & Ors. v. The State of Jharkhand & Anr.** reported in **2015(4) East. Cr.C 741 (Jhr).**

31. **Ramesh Kumar Srivastava & Anr. v. State of Bihar & Anr.** reported in **2009(2) East. Cr.C 419**, **Mumtaz Bano Arzoo & Ors. v. State of Bihar & Anr.** reported in **2010(1) East. Cr.C 243**, **Santokh Singh v. State of Jharkhand & Anr.** reported in **2010(1) East. Cr.C 154** are distinguishable on the facts of the case.

32. Considering the factual as well as legal aspect, so involved, it is apparent that petitioner is not entitled to seek the relief as claimed for consequent thereupon, instant petition is dismissed.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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