

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9073 of 2014

Arising Out of P.S. Case No.255 Year 2005 Thana BUXAR COMPLAINT CASE District BUXAR

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1. Pramod Kumar S/o Sri Ramashankar Ram
 2. Ratan Kumar S/o Sri Ramashankar Ram
 3. Saroj Kumar S/o Sri Ramashankar Ram
 4. Ramashankar Ram S/o Late Jhuri
 5. Puna Devi W/o Ramashankar Ram All R/o Village Halimabad, P.S. Mohamadabad, District Mau (U.P.)

.... Petitioners

Versus

1. The State of Bihar
2. Ranjan Lata D/o Sri Bahadur Ram, W/o Pramod Kumar R/o Chhotaki Sarimpur Ward No.-10 Buxar (Town), District Buxar

.... Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Dhirendra Kumar Sinha, Advocate
For the State	:	Mr. Manoj Kumar-I, APP
For O.P. No.2	:	Mr. Anshuman Singh, Advocate
		Mr. Ramakant Yadav, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 25-08-2017

Heard learned counsel for the parties.

2. Petitioners are the husband and other in-laws of Ranjan Lata, opposite party no.2, and they have challenged the order dated 21.04.2006, passed by S.D.J.M., Buxar in Complaint Case No.255(c) of 2005 whereby the learned Magistrate has taken cognizance of the offence under Section 498A IPC.

3. The petitioners seek quashing of the order of cognizance and subsequent criminal proceedings. Allegation in brief, as narrated in the complaint, is that opposite party no.2 was married in the year 2003 with Pramod Kumar, petitioner no.1 but after marriage



she came to her matrimonial home, her husband and other in-laws started making further demand of Rs.1,00,000/-, she protested, so on 15.07.2003 her husband and other in-laws quarreled and assaulted her. Thereafter she went back to her parents' home where the husband threatened telephonically to divorce her. Again she came back to matrimonial home but she was invariably subjected to harassment and cruelty and after 21.03.2005 she returned back to her parents' home. The court below has taken cognizance by impugned order after conducting enquiry.

4. Learned counsel for the petitioners submits that for the same offence, two criminal prosecutions have been launched by opposite party no.2, first, the present complaint being Complaint Case No.255(c) of 2005 dated 20.04.2005 filed in the court of learned CJM, Buxar where she resides with her parents, subsequently she filed Mohamadabad P.S. CaseNo.100 of 2005 dated 04.09.2005 relating to the same allegation of torture and harassment relating to realization of demand of further dowry and in the police case, the court has taken cognizance by order dated 17.12.2005 and the case is pending there. It is further submitted that the entire allegation, as narrated in the complaint petition, said to have taken place at matrimonial home of the complainant situated under Mohamadabad Police Station in the district of Mau, Uttar Pradesh; so the jurisdiction for trial of the case



lies at Mau and not at Buxar moreover the accused persons cannot be put on trial twice for the same offence at two places.

5. Contrary to the said submission, learned counsel appearing on behalf of the complainant submits that in the complaint petition allegation is that for the first time the complainant returned back to her parents' home due to torture and harassment meted out to her, the husband telephonically threatened her of divorce so the territorial jurisdiction also lies there and in support of his contention, he places reliance in the case of Sunita Kumari Kashyap v. State of Bihar, reported in (2011) 11 SCC 301 further submits that if the jurisdiction does not lie at Buxar in such situation the complaint is required to be filed before the court having proper jurisdiction in the matter. He also submits that under Section 482 Cr.P.C., the court should not stifle the criminal proceeding.

6. Having considered the rival submissions of both sides and on perusal of the records, this Court finds that the complainant filed this complaint case relating to the occurrence dated 07.06.2003 to 20.03.2005 in the court of CJM, Buxar where she presently lives with her parents but subsequently she filed Mohamadabad P.S. Case No.100 of 2005 on 04.09.2005 after lapse of four months of the lodging of the complaint case. In view of the facts stated in the complaint she left her matrimonial home on 21.03.2005. An admitted



position is that the accused persons' resident is situated under Mohamadabad Police Station in the district of Mau, Uttar Pradesh. The entire allegation, as made in the complaint, relating in particular to torture and harassment to the complainant by the accused persons for realizing further dowry was committed at her matrimonial home at Mau. In the case of T.T. Antony vs. State of Kerala, reported in (2001) 6 SCC 181. The Supreme Court has held that any further complaint by the same complainant or other against the same accused subsequent of the registration of the case relating to the same occurrence is prohibited under the Code. Further this contention is reiterated in the case of Shiv Shankar Singh vs. State of Bihar & Anr., reported in (2012) 1 SCC 130 wherein it is held that law does not permit for filing of a second complaint on the same facts provided that the earlier complaint has been rescinded on the basis of insufficient material. In the present case relating to the same occurrence of torturing the complainant for realizing further demand of dowry, two cases have been filed under Section 498A IPC, one by way of filing a complaint case in the court of CJM, Buxar, subsequently the police case in Mohamadabad Police Station in the district of Mau, Uttar Pradesh and in that police case also the court is ceased with the matter after taking cognizance. The accused cannot be prosecuted at two places for the same offence moreover, there is absence of territorial



jurisdiction for conducting any enquiry and trial in the matter by the court of CJM, Buxar. A criminal proceeding after taking cognizance under Section 498A of the Indian Penal Code by a court of competent jurisdiction at Mau in Uttar Pradesh arising out of Mohamadabad P.S. Case No.100 of 2005 dated 04.09.2005 is going on so the continuation of the criminal proceeding in Complaint Case No.255(c) of 2005 would be abuse of the process of the court. In this view of the matter, the entire criminal proceeding of Complaint Case No.255(c) of 2005 inclusive of the order of cognizance dated 21.04.2006, passed by learned S.D.J.M., Buxar is set aside.

7. This application is allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
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