

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47646 of 2013

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1. Sumita Devi Wife of Bhola Das
2. Bhola Das Son of Late Hazari Das R
3. Yamuna Das Son of Bhola Das
All residents of village- Nemdarganj, P.S. + District-Lakhisarai

.... Petitioner/s

Versus

1. The State of Bihar
2. Smita Kumari @ Bimli Devi D/O Satya Narayan Das, Wife Of Yamuna Das
R/O Village-Kanhaipur, P.S. Mokama, Distt-Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar, Advocate.
For the State : Mr. G.S.Gupta, A.P.P.
For the O.P. No. 2 : Mr. Ashok Kumar Kashyap, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 28-06-2017

Heard learned counsel for the parties.

2. The petitioners are the mother-in-law, father-in-law and husband of the complainant and accused in Complaint Case No. 253C of 2013 and they have challenged the impugned order dated 11.07.2013 passed by the Sub Divisional Judicial Magistrate , Barh whereby he has taken cognizance under Section 498A of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

3. Learned counsel for the petitioners submits that general and omnibus allegations are levelled in the complaint against petitioners. He submits that S.D.J.M., Barh has no jurisdiction to take cognizance due to lack of territorial jurisdiction as the occurrence took place within the territorial jurisdiction of Lakhisarai. It is also



submitted that husband petitioner no. 3 as well as wife/complainant both have married again and living with their spouses.

4. Learned counsel for the Opposite Parties opposed the prayer.

5. It appears that marriage of the complainant was solemnised with the petitioner no. 3 and prior to lodging of the complaint case, she was being tortured for realising more dowry so the allegation levelled in the complaint makes out a *prima facie* case under Section 498A of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act and even performing second marriage with another woman by the petitioner no. 3, without getting divorce from the first wife, is also against law. Moreover, the act of cruelty is physical as well as mental and it is a continuing offence. Unless a wife is taken back to matrimonial home after being driven out from her matrimonial home on account of non-fulfillment of further demand, it is a continuing offence, therefore, jurisdiction in view of Section 178(3) of the Cr.P.C. lies at Barh jurisdiction too. Therefore, finding no merit, this petition is dismissed.

(Arun Kumar, J)

Sujit/-

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CAV DATE	
Uploading Date	10.07.2017
Transmission Date	10.07.2017

