

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43005 of 2011

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1. Chandra Prakash Agrawal, son of Late Gauri Shankar Agrawal R/O 47/96 Sadawarti Chowk Azamgarh, P.S.-Kotwali, Dist.-Azamgarh(U.P.)
2. Beena Agrawal W/O Chandra Prakash Agrawal R/O, 47/96 Sadawarti Chowk Azamgarh, P.S.-Kotwali, Dist.-Azamgarh(U.P.)
3. Deepak @ Bhagwati Prasad Agrawal, son of Late Narshingh Prasad R/O 87 Sadawarti, P.S.-Sadar, Dist.-Azamgarh(U.P.)
4. Smt. Guddi Agrawal @ Annapurna Agrawal W/O Deepak @ Bhagwati Prasad Agrawal R/O 87 Sadawarti, P.S.-Sadar, Dist.-Azamgarh(U.P.)
5. Munni Agrawal @ Abha Agrawal, wife of Hanuman Prasad Agrawal R/O Mohalla.-Annantpura, P.S.-Kotwali, Dist.-Azamgarh
6. Hanuman Prasad Agrawal, son of Late Ram Chandra Agrawal R/O Mohalla.-Annantpura, P.S.-Kotwali, Dist.-Azamgarh
7. Smt. Meenu Agarwal @ Meerna Agrawal, wife of Anjani Mittal R/O 67/50 Uchi Mandi, P.S.-Muthiganj, Dist.-Allahabad(U.P.)
8. Anjani Mittal, son of Bindeshwari Prasad Agrawal R/O 67/50 Uchi Mandi, P.S.-Muthiganj, Dist.-Allahabad(U.P.)
9. Pankaj Kumar Goel, son of Chandra Prakash Agrawal R/O, Mohalla.-47/96 Sadawarti Chowk Azamgarh, P.S.-Kotwali, Dist.-Azamgarh, presently residing in abroad and posted as Manager Monitoring & Sales compliance in Chemi & Cotex Industries, Dares Salaam, Tanzania

.... Petitioners

Versus

1. The State Of Bihar
2. Pragya Jain @ Goel D/O Prasun Chandra Jain R/O Jail Road Arrah, P.S.-Arrah, Dist.-Bhojpur (Arrah)

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajoy Kumar Chakraborty, Adv.
For the Opposite Party/s : Mr. Nawal Kishore Prasad, App

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

7 10-10-2017 Heard learned counsel for the petitioners and the State.

This application has been filed for quashing the order dated 10.8.2011 passed by the Chief Judicial Magistrate, Bhojpur at Arrah in Arrah Town P.S. Case No. 115/2011 instituted for the offence under sections 498A, 120B/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act by which the learned



Magistrate ordered for issuance of warrant against the petitioners, on the prayer of I.O.

Learned counsel for the petitioners has submitted that the court has passed the order without proper jurisdiction and any sufficient material against these petitioners. The learned Chief Judicial Magistrate has allowed the prayer of the I.O. and ordered for issuance of warrant against them by the impugned order.

The informant has filed a written report before the police in Sadar P.S., Arrah alleging therein that she was married with Pankaj Kumar Goel on 29.11.2002 in Azamgarh and lived in her Sasural in U.P. where she was subjected to various torture as given in detail in the F.I.R. It is alleged that these petitioners also assaulted her for demand of dowry and ousted the informant alongwith her two children out of the house.

From the impugned order it appears that the court below has on the basis of petition filed by the I.O. ordered for issuance of warrant against all these petitioners. The zerox copy of the order sheet has been filed by the petitioners from which it appears that the F.I.R. was received on 15.4.2011 in the court of the Chief Judicial Magistrate, Bhojpur at Arrah. On 10.8.2011 the I.O. filed a petition before the learned Magistrate for issuance of warrant against the petitioners and the court below has allowed the



aforesaid petition of the I.O. and warrant have been ordered to be issued against the petitioners.

From the written report itself it is apparent that the marriage has been performed in Azamgarh and the informant lived with her husband in Azamgarh. She has also alleged about various torture committed with her in Azamgarh. Sections 177 of the Cr.P.C. deals with ordinary place of enquiry and trial.

“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.”

In the instant case, from the averments in the written report it appears that the entire occurrence has taken place in Azamgarh. Learned counsel for the petitioners has relied on the decision of the Hon'ble Supreme Court in the case of **Y. Abraham Ajith & ors. v. Inspector of Police, Chennai & another, reported in AIR 2004 SC 4286**, wherein in similar situation the order of the court below was quashed.

This Court from perusal of the impugned order finds that there was no substance or material brought by the I.O. before the learned Magistrate for issuance of warrant against the petitioners. The learned Magistrate has on the basis of petition filed by the I.O. ordered for issuance of warrant against the petitioners by the



impugned order. Accordingly, the impugned order dated 10.8.2011 passed by the Chief Judicial Magistrate, Bhojpur at Arrah in Arrah Town P.S.Case No. 115/2011 as well as the entire F.I.R. filed by the informant against the petitioners before Town Police Station, Arrah was not in accordance with law and the same is quashed.

This criminal miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

Surendra/-

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