

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.675 of 2016

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

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1. Md. Ali Imam Hussain @ Ali Imam
 2. Md. Anwar Ali@Anwar Ali Both are Sons of Md. Mazruddin.
 3. Shahana Khatoon Wife of Answar Ali
 4. Nagma Khatoon Daughter of Md. Mazruddin
 5. Md. Mazruddin @Mazruddin Son of Rafique Mian
 6. Gulshan Khatoon@ Gul Hasan Wife of Md. Mazruddin all resident of Village-Khawaspur, P.S. Basantpur, District Siwan,.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Home Police Department, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna
3. The Superintendent of Police, Bhagalpur.
4. The Deputy Superintendent of Police, Naugachhiya, District Bhagalpur.
5. The Officer-In-Charge of Dhol Bajja Police Station- Naugachhiya, District Bhagalpur.
6. The Investigating Officer of Dholbajja, P.S. Case No. 13/2015, Dholbajja Police Station- Naugachhiya, District Bhagalpur.
7. The Superintendent of Police, Siwan.
8. The Officer-In-Charge, Basantpur Police Station, District Siwan.
9. Raveena Khatoon Wife of Jahir Hussain Resident of Dholbajja Bazar, P.S. Dholbajja Bazar, District Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar, Advocate
For the Respondent/s : Mr. Madhukar Krishna Sinha, SC-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 03-08-2017

No one appears on behalf of respondent No.9 though Vakalatnama has been filed. By order dated 21.03.2017, on the prayer of respondent No.9 three weeks' time was allowed to file counter affidavit.

2. The petitioners are accused in connection with



Dholbajja P.S. Case No.13 of 2015 registered under Sections 304B/201/34 of the Indian Penal Code.

3. The petitioners have invoked the writ jurisdiction of this Court to quash the F.I.R. of the aforesaid case on the ground that the entire occurrence alleged took place at village Khawaspur, police station Basantpur, district Siwan, the house of the petitioners. Therefore, Dholbajja Police Station within Bhagalpur district, where the informant resides, had no jurisdiction to investigate the case. Alternative prayer is for transfer of the aforesaid case to Basantpur Police Station in the district of Siwan where the occurrence had taken place.

4. The State-respondents by filing counter affidavit resisted the prayer of the petitioners on the ground that, in fact, initially respondent No.9 Raveena Khatoon had filed Complaint Case No.50 of 2015 in the Court of Additional Chief Judicial Magistrate, Naugachhia, in the district of Bhagalpur, and the complaint petition was sent to the local police station (Dholbajja Police Station) under Section 156(3) Cr.P.C. by the learned Magistrate for registration of a police case and investigation. Hence, Dholbajja Police Station has no option to refuse the direction of the learned Magistrate and the case was rightly instituted and the investigation is properly going on. Learned counsel for the State-respondent submits that during



investigation some of the witnesses have stated that part of this occurrence of torture had also taken place in the village of the informant. Hence, part cause of action arose within the territorial jurisdiction of Dholbajja Police Station also.

5. After hearing the parties and on perusal of the complaint petition, I find that there is allegation of demand of dowry and torture for the same to the daughter of the informant and further allegation is of commission of her death for non-fulfilment of dowry demand.

6. The complaint petition does not disclose that any part of the occurrence ever took place within the jurisdiction of the Judicial Magistrate exercising jurisdiction over Dholbajja Police Station.

7. Considering the prima facie disclosure of cognizable offence against the petitioners in the F.I.R., I do not find a case for quashment of the F.I.R. only for the reason that the case was instituted before a wrong police station as well as for the reason that after the commission of alleged crime one of the petitioner Md. Mazruddin @ Mazruddin has already executed a gift deed in favour of the sons of the deceased vide Annexure-1.

8. However, the perusal of the following provisions of the Code of Criminal Procedure would apparently indicate that



Dholbajja Police Station has no jurisdiction to investigate the case.

9. Section 156 Cr.P.C. provides for power of the police officer to investigate cognizable case which reads as follows:

“Section 156 – (1) Any Officer-in-Charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to enquire into or try under the provisions of Chapter-XIII.”

Chapter-XIII of Cr.P.C. contains provisions of jurisdiction of criminal Courts in inquiries and trial, reads as follows:

“177. Ordinary place of inquiry and trial.- Every offence shall ordinarily be inquired into and tried by a Court within 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 a 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.”*

Section 179 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.”***

10. What is noticeable in the present case is that entire occurrence took place within the territorial jurisdiction of Basantpur Police Station within the district of Siwan and no part of the occurrence or consequence of the main occurrence followed within the territorial jurisdiction of Dholbajja Police Station within the district of Bhagalpur.

Therefore, in my view, the aforesaid case requires to be transferred to Basantpur Police Station in the district of Siwan within whose jurisdiction the entire offence took place for expeditious



investigation of the case.

11. Let a copy of this order be sent to the Court concerned as well as the Superintendent of Police of both the districts to ensure early compliance of this order.

12. With the aforesaid observation, this writ application stands partly allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.08.2017
Transmission Date	10.08.2017

