

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30519 of 2013

Arising Out of PS.Case No. -179 Year- 2009 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Narayan Bind S/O Chandar Bind Resident Of Village- Arpa, Beladariya Par,
P.S.- Nalanda, District- Nalanda

.... Petitioner/s

Versus

1. The State Of Bihar
2. Bhim Bind S/O Late Jaganarayan Bind Resident Of Village/Mohalla- Begampur,
P.S.- Baipass, District- Nalanda

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satish Kumar Sinha, Adv.
For the State : Mr. Jharkhandi Upashyay, APP
For Opposite Party No.2 : Mr. Vinay Kumar Ambastha, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 06-04-2017

Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the opposite party no.2.

2. This application under Section 482 of the Code of
Criminal Procedure (for short 'Cr.P.C.') has been filed for quashing
the order dated 10th July, 2009 passed by the learned Judicial
Magistrate 1st Class, Patna City in C.A.Case No. 179 of 2009
whereby, finding a prima facie case to be made out under Sections
323 and 498-A of the Indian Penal Code, the petitioner has been
summoned to face trial.

3. According to the complainant-opposite party no.2, his
daughter Amrita Devi @ Bindu Devi was married to the petitioner



Narayan Bind in the year 2003. At the time of marriage, gifts both in cash and in kind were given to the petitioner. Later on, his daughter went to her *sasural* where she was subjected to cruelty for non-fulfillment of demand of dowry. On 17th December, 2008 the complainant received telephonic message from the petitioner regarding ill health of his daughter and when he along with his family members went to the *sasural* of his daughter, he saw the house locked and the accused persons were absconding. On enquiry from the residents of the locality, he came to know that his daughter is lying dead near the Primary School situated in the village. He immediately went to the place where the body of his daughter was lying. He suspected that his daughter was killed by the accused petitioner by administering poison.

4. It is stated in the complaint that the matter was immediately brought to the notice of the local police but since no action was taken by the S.H.O. of the Police Station, the complainant raised his grievance before the Dy.S.P. and the S.P., Nalanda.

5. Learned counsel for the petitioner submitted that the entire allegation made in the complaint is false and concocted. He submitted that in respect of the alleged incident, wife of the complainant Lalita Devi made fardbeyan before the police, pursuant to which Nalanda P.S. Case No. 145 of 2008 was registered against



the petitioner and his father Chander Bind under Sections 304-B and 328/34 of the Indian Penal Code on 18th December, 2008. He contended that on investigation the police found the allegation to be false and accordingly final form was submitted in the police case in the court of Chief Judicial Magistrate, Bihar Sharif on 1st March, 2009, and only thereafter, the instant complaint has been filed on 6th March, 2009 suppressing the fact that an FIR was already instituted earlier and upon investigation the police had found the allegation to be false.

6. Learned counsel for the petitioner has also assailed the order on the ground that the learned A.C.J.M., Patna City completely lacked territorial jurisdiction to deal with the matter.

7. Per contra, learned counsel for the opposite party no.2 submitted that the complainant of the case being a labourer and an illiterate person was not aware about institution of the police case and its outcome and hence the instant complaint was filed. He submitted that there is no suppression of fact as the complainant has disclosed everything in the complaint petition that information was given to the police and when no action was taken against the accused persons, a complaint was made to the local Dy.S.P. and S.P., Nalanda also in this regard. However, he concedes that the learned A.C.J.M., Patna City had no territorial jurisdiction over the matter and to that extent the order of cognizance cannot be justified.



8. Similarly, Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor also concedes that the order impugned passed by the learned A.C.J.M., Patna City is erroneous in law.

9. I have heard learned counsel for the parties and perused the record.

10. The facts of the case are not in dispute. Admittedly, the daughter of the complainant died within the territorial jurisdiction of Nalanda district for which a police case was instituted at Nalanda, Bihar Sharif under Sections 304-B and 328/34 of the Indian Penal Code. It is also an admitted fact that in the police case at Nalanda the Police have already submitted final report holding the accusation to be false.

11. Though the parties are in agreement that the learned A.C.J.M., Patna City had no territorial jurisdiction to pass order summoning the petitioner to face trial, it would be proper for this Court to refer to Sections 177 and 178 of the Cr.P.C., which are as under :-

“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 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.”

12. A reading of the aforesaid Sections would make it clear that Section 177 of the Cr.P.C. provides for ordinary place of inquiry or trial whereas 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, and 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 in view of Section 178 of the Cr.P.C.. Thus, the territorial jurisdiction of a court with regard to criminal offence is to be decided on the basis of place of occurrence of the incident. In the instant case, allegedly the offence was committed at Nalanda where the complainant had also found the body of his deceased daughter. Hence, the offence alleged cannot be said to have been committed wholly or partly within the local jurisdiction of the Magisterial court at Patna City.

13. In that view of the matter, I am of the considered opinion that the learned Judicial Magistrate 1st Class, Patna City grossly erred in taking cognizance of the offence and summoning the petitioner to face trial. Accordingly, the impugned order dated 10th July, 2009



passed by the learned Judicial Magistrate 1st Class, Patna City in C.A.Case No. 179 of 2009 is set aside. Consequently, the complaint case vide C.A. No. 179 of 2009 stands quashed.

14. The application stands allowed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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