

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.54085 of 2013

Arising Out of PS.Case No. -3438 Year- 2010 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Priyasheel Upadhyaya, S/O R. R. Upadhyaya (Ram Ranjan Upadhyaya) permanent/present resident of 419/1 Vasundhara, P.S.-Indirapuram, Distt. Ghaziabad (U.P.),
 2. R. R.Upadhyaya (Ram Ranjan Upadhyaya), S/O late H. N. Upadhyaya,
 3. Mrs. Veenu Upadhyaya, W/O R. R. Upadhyaya, resident of Ratanpur House, Jagat Narayan Road (Adjacent to Road No.- 1C, Rajendra Nagar, Patna- 16), P.O. & P.S.- Kadamkuan, Distt.- Patna- 800003

.... Petitioner/s

Versus

1. The State Of Bihar
2. Mrs. Tanya @ Munmun, D/O Smt. Kavita Choudhary, resident of Janki Smriti, Water Pump Lane, Pirmohani, P.S.- Gandhi Maidan, Town & Distt- Patna- 800003

.... Opposite Party/s

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Appearance :

For the Petitioner/s : None

For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 27-04-2017

1. This application has been filed for quashing the order dated 23.09.2013 passed by the *Ad hoc* Additional Sessions Judge, 1st, Patna, in Cr. Revision No.963 of 2011 as well as order dated 20.05.2011 passed by the Sub-Divisional Judicial Magistrate, Patna, in Complaint Case No.3438-C of 2010, by which learned Magistrate after holding enquiry has found *prima facie* case against the petitioners.

2. The case was listed on 25.04.2017, but none appeared on behalf of the petitioners and the case was ordered to be



listed today i.e. 27.04.2017 giving last chance to the counsel for the petitioners to appear and argue the case.

3. Today also, none appears either on behalf of the petitioners or on behalf of the Opposite Party No.2.

4. Counsel for the State has appeared and submits that there is no illegality in the impugned order.

5. From perusal of the impugned order dated 23.09.2013 passed by the *Ad hoc* Additional Sessions Judge, 1st, Patna, as well as order dated 09.11.2011 passed by the Sub-Divisional Judicial Magistrate, Patna, in Complaint Case No.3438-C of 2010, against which aforesaid Criminal Revision was preferred before the Sessions Judge, it appears that a petition was filed by the petitioners before the learned Sub-Divisional Judicial Magistrate, Patna, on 22.10.2011 to drop the proceeding on the ground of jurisdiction as the entire occurrence has taken place at *Gaziabad*.

6. The learned Sub-Divisional Judicial Magistrate, Patna, has mentioned in the order dated, 09.11.2011, that substantial portion of the alleged occurrence has taken place at Patna. Learned Sub-Divisional Judicial Magistrate, Patna, has mentioned provision of Sections 177 to 179 Cr. P.C. and has held that the Court at Patna has proper jurisdiction to proceed in the case.

7. Learned *Ad hoc* Additional Sessions Judge, 1st,



Patna, has mentioned in the revisional order dated, 23.09.2013, that offence under Section 498-A Indian Penal Code is a continuing offence and if the same is committed in more local areas than one then both the Courts have jurisdiction where the offence took place to try the case.

8. In this respect, the learned *Ad hoc* Additional Sessions Judge has relied on the decision reported in **(2011) 3 Supreme Court Cases (Cri) 173 [Sunita Kumari Kashyap Vs. State of Bihar & anr.]** and **2012 (2) PLJR 107 [Dinesh Mahto Vs. The State of Bihar & Ors.]**

9. Section 179 Cr. P. C. clearly states that “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 enquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued”.

10. From perusal of para 4, 7, 8, 10 and 19 of the Complaint Petition, it would be apparent that substantial portion of occurrence took place at Patna right from negotiation of marriage till post marriage stage.

11. The learned Sub-Divisional Judicial Magistrate, has mentioned in his order dated 09.11.2011 that the statement of the complainant on Solemn Affirmation clearly reveals that on



10.09.2010, the in-laws of the complainant had sent few henchmen to the office of the complainant. The complainant has also stated in her Solemn Affirmation that at the time of reception of marriage party the in-laws demanded rupees ten thousand and only after payment of money for light etc. marriage took place and prior to marriage also accused-petitioners had demanded rupees ten lac and other house hold articles. It is further alleged in para 21 and 22 of the Complaint Petition that the accused persons have committed cruelty at Patna also in continuation of earlier cruelty with the complainant for meeting unlawful demand of dowry.

12. Therefore, this Court does not find any illegality in the order dated 09.11.2011 passed by the Sub-Divisional Judicial Magistrate, Patna, in Complaint Case No.3438-C of 2010 as well as order dated 23.09.2013 passed by the *Ad hoc* Additional Sessions Judge, 1st, Patna, in Cr. Revision No.963 of 2011.

13. Accordingly, the application is dismissed.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	22-05-2017
Transmission Date	22-05-2017

