

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50462 of 2014

Arising Out of PS.Case No. -83 Year- 2000 Thana -MAGADH MEDICAL COLLEGE District-
GAYA

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1. Anupama Harne @ Anupama Bhagat, wife of Sanjay Keshav Harne, daughter of
Lt. Col. Dr. D. Bhagat, resident of Jail Road, Rampur, P.S.- Rampur, Dist. Gaya

.... Petitioner/s

Versus

1. The State of Bihar
2. Sanjay Keshav Harne, S/o Sri Keshav Harne, resident of Mohalla- 46, Tulsi
Nagar Musakheri, Indore (M.P.)

.... Opposite Party/s

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Appearance :

For the Petitioner	:	Mr. Dinu Kumar, Adv. Mr. Arvind Kumar Sharma, Adv. Ms. Ritika Rani, Adv. Ms. Kumari Neha Mr. Vijay Kumar Vimal, Adv.
For the Opposite Party/s	:	Mr. Pradeep Narayan Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 08-01-2018

Heard learned counsel for the petitioner and the State.

This application has been filed for quashing the order dated 31-07-2014 passed in Trial No. 250 of 2012 (G.R. No. 3489 of 2001) arising out of Magadh Medical College & Hospital P.S. Case No. 83 of 2000 passed by learned SDJM, Gaya by which, the learned Magistrate allowed the prayer of opposite party No. 2 giving liberty to the petitioner to file case before the appropriate court of competent jurisdiction.

Counsel for the petitioner has submitted that the impugned order passed by the learned Magistrate is illegal and without jurisdiction. The police after investigation, submitted charge sheet in the case.



Thereafter, cognizance has been taken in this case by the learned CJM for the offence under Sections-498A, 379, 323 of the Indian Penal Code and 4/6 of D.P. Act. Thereafter, the case was transferred to the court of learned Sub Divisional Judicial Magistrate, Gaya for trial. The learned Sub Divisional Judicial Magistrate, Gaya has entertained the petition filed on behalf of the accused persons that Gaya court has no jurisdiction and has allowed the petition holding that Gaya court has no jurisdiction and liberty was given to parties to file appropriate petition before the court of competent jurisdiction.

Counsel for the petitioner has pointed out Sections-178 & 179 of the Cr. P.C. which gives jurisdiction of the criminal courts for inquiry and trial.

Section- 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 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.”

Counsel for opposite party No. 2 has submitted that the matter may be referred to Mediation Centre so that amicable settlement be arrived at.

This court after looking into the impugned order finds that the same is illegal and without jurisdiction. The learned Magistrate has no jurisdiction to pass such order when cognizance was taken by the learned CJM, after submission of charge sheet by the police against the accused persons for the offence under Sections-498A, 379, 323 of the Indian Penal Code and 4/6 of D.P. Act. Section-178 and 179 of Cr.P.C. speaks about the jurisdiction of the Criminal Courts in inquiries and trials.

Therefore, the impugned order dated 31-07-2014 passed in Trial No. 250 of 2012 (G.R. No. 3489 of 2001) arising out of Magadh Medical College & Hospital P.S. Case No. 83 of 2000 passed by court below is set aside.

The court below is directed to proceed in the trial in accordance with law.

This Cr. Misc. Application is allowed.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11-01-2018
Transmission Date	11-01-2018

