

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44491 of 2014

Arising Out of PS. Case No.-454 Year-2013 Thana- MUNGER COMPLAINT CASE
District- Munger

-
1. Bideshi Paswan Son of Late Ramtuni Paswan
 2. Mina Devi Wife of Bideshi Paswan
 3. Krishna Murari Paswan @ Tufani @ Tufani Paswan @ Krishna Murari Son of Bideshi Paswan
 4. Kalpana Kumari D/o Bideshi Paswan All R/o Mohalla Ambedkar Nagar, Noorjamapur, Ward No. 01, P.S. Balia, District Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manisha Devi Wife of Rahul Kumar @ Vivek Kumar, D/o Matuki Paswan R/o- Hasnpur (Ranga), P.S. - Mufassil, District - Munger.

... .. Opposite Party/s

Appearance :

For the Petitioners	:	Mr. Sanjay Sinha, Advocate Mr. Fazle Karim, Advocate
For the State		Mr. Shyam Bihari Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL JUDGMENT
Date : 20-04-2018

Heard learned counsel for the petitioner and the learned
APP for the State.

2. The petitioners seek quashing of the order of cognizance dated 09.07.2013, passed by learned SDJM, Munger in Complaint Case No.454(C) of 2013 thereby taking cognizance of the offence under Section 498 of the Indian Penal Code as well as under Sections 3/4 of the Dowry Prohibition Act.

3. The brief fact giving rise to the case is that the marriage of Manisha Devi, the complainant, was solemnized with Rahul



Kumar @ Vivek Kumar on 22.09.2010 at her parents' home situated in the district of Munger. Thereafter the complainant came to her in-laws' place but just after 2-3 months, her husband and other family members started torturing and harassing her for realizing a motorcycle and Rs.25,000/- cash, on this account, she was also invariably assaulted by the accused persons. Parents of the complainant tried to persuade the matter and on one occasion gave Rs.5,000/- but did not satisfy the lust of accused persons and again started torturing her. In the month of May, 2012, the complainant became pregnant thereafter when she was tortured by the accused persons, so her parents brought her to their house in Munger where she delivered a girl child on 15.02.2013 and on the occasion of the programme after birth of the child, none participated from her in-laws place and they also refused to accept her and bring her back to the matrimonial home unless demand is fulfilled.

4. Learned counsel for the petitioners submits that no part of the occurrence regarding torture and demand of dowry was made by the accused persons within the territorial jurisdiction of Munger. There is no averment in the complaint that any demand was made at the complainant's home situated in the district of Munger or committed any torture and harassment at that place. Entire allegation of torture and making of demand is within the territorial jurisdiction of Begusarai, the in-laws place of the complainant. Learned counsel



for the petitioner places reliance to a decision in the case of Reference from District & Sessions Judge, Siwan v. Suo-Motu, reported in 2017 (2) PLJR 981.

5. Learned counsel for the State contends that there is one instance mentioned in the complaint that even after delivery of a girl child by the complainant, none of the accused persons participated, so it amounts to cruelty.

6. Having considered the rival submissions and on perusal of the records, the Court finds that after going through the complaint not a single instance is mentioned of making any demand of further dowry from complainant or her parents at her parents' home. Likewise, allegation of committing torture and harassment too was not alleged to have been committed at parents' home of the complainant. Sections 177, 178, 179 and 180 of the Code of Criminal Procedure deals with the territorial jurisdiction of the criminal courts for making enquiry and trial. In view of Section 177 Cr.P.C., merely every offence is to be tried or inquired into by a Court within whose local jurisdiction the offence is alleged to have been committed and in case of uncertainty regarding in which local area, the offence was committed, in such situation where even a part of the offence has been committed in the particular local area, the said court has got jurisdiction and where according to Section 179 Cr.P.C. even where consequence of an offence committed by the accused persons as



ensued within that local jurisdiction also the case can be tried. However, in the case of *Amarendu Jyoti v. State of Chhattisgarh*, reported in (2014) 12 SCC 362, the Apex Court in paragraph 11 held as follows:

“11. We find that the offence of cruelty cannot be said to be a continuing one as contemplated by Sections 178 and 179 of the Code. We do not agree with the High Court that in this case the mental cruelty inflicted upon Respondent 2 “*continued unabated*” on account of no effort having been made by the appellants to take her back to her matrimonial home, and the threats given by the appellants over the telephone. It might be noted incidentally that the High Court does not make reference to any particular piece of evidence regarding the threats said to have been given by the appellants over the telephone. Thus, going by the complaint, we are of the view that it cannot be held that the Court at Ambikapur has jurisdiction to try the offence since the appropriate Court at Delhi would have jurisdiction to try the said offence. Accordingly, the appeal is allowed.”

7. In this case, the Apex Court has come to the conclusion that on account of no effort being made by the accused persons to take the complainant back to the matrimonial home and the threats given by them over the telephone can be considered as the offence inflicted upon the complainant continued unabated. Similar analogy in the present case can be drawn that non-participation by the accused persons on the occasion of *Chhaththi* ceremony after



delivery of the girl child at the parents home of the complainant cannot be considered as mental cruelty committed to the complainant. The Court has gone through the entire complaint and finds that there is no averment made in the said application regarding making demand of further dowry or committed torture and harassment in that connection within the territorial jurisdiction of Munger that is the parents' home of the complainant, so definitely the territorial jurisdiction in the present considering material on record of the case does not lie at civil court, Munger rather the jurisdiction lies to Begusarai, so the impugned order dated 09.07.2013, passed by learned SDJM, Munger in Complaint Case No.454(C) of 2013 is set aside as it lacks the territorial jurisdiction for taking cognizance in the matter with liberty to the complainant to file the complaint before the court having appropriate territorial jurisdiction for inquiry and trial in the matter that is civil court, Begusarai.

8. With the aforesaid observation, the quashing application stands allowed.

(Arun Kumar, J)

S.KUMAR/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	03.05.2018
Transmission Date	03.05.2018

