

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1223 of 2015

Arising Out of PS. Case No.-300 Year-2014 Thana- DANAPUR District- Patna

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1. Dr. Verendra Kumar Saxsena Son of Late Dr. Shyam Lal Saxsena,
 2. Smt. Asha Saxsena, W/o Dri Verendra Kumar Saxsena
Both are resident of B- 1/26 Sector - K Aliganj, Lucknow.
 3. Sri Bageshwar Prasad Srivastava, S/o Late Sri Mahadeo Lal Srivastava,
 4. Smt. Pushpa Srivastava @ Pushpa Devi, W/o Sri Bageshwar Prasad Srivastava,
 5. Ajay Srivastava, S/o Sri Bageshwar Prasad Srivastava, All are
Residing at BE- 253 Aventika Chiranjeev Bihar, P.S. - Kavi Nagar, District - Ghaziabad, State - U.P.
 6. Murlidhar Srivastava, S/o Sri Bageshwar Prasad Srivastava
Residing at House No. 50 Nehru Nagar Gaziabad, U.P.

... .. Petitioners

Versus

1. The State of Bihar
2. Director General of Police, Patna, Bihar.
3. Senior Superintendent of Police, Patna.
4. Deputy Superintendent of Police Danapur, P.S. - Town & District - Patna.
5. Officer In Charge Danapur, P.S. Town & District - Patna.
6. Mr. Balvindra Prasad, S/o not known, S.I. Danapur, P.S. Town & District - Patna. the investigating Officer.
7. Smt. Namrata Srivastava, D/o Mr. Subodh Prasad Residing at Mohalla - Dwarikapuri Khagaul, District - Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Sandeep Kumar, Advocate Mr. Rana Vikram Singh, Advocate Srivastava
For the Respondent/s	:	Mr. Manindra Kumar Sinha, Advocate Mr. Rajodaga Satyajeet, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 08-08-2018 This writ application has been preferred for quashing of the first information report giving rise to Danapur P. S. Case No. 300 of 2014 dated 02.07.2014 (Annexure-1 to the writ application) instituted by Smt. Namrata Srivastava (respondent no. 7) who is the wife of Murlidhar Srivastava,



(petitioner no. 6) for the offence alleged under Section 498A of the Indian Penal Code and Sections 3 /4 of Dowry Prohibition Act.

2. Earlier while issuing notice to respondent no. 7 the learned co-ordinate bench of this Court has been pleased to pass an interim order dated 14.10.2015 directing that further proceeding in the meantime shall remain stayed. This Court has been informed that in view of the order of this Court no further action has been taken by the respondent authorities.

3. As the matter was called out learned counsel representing the petitioners raised a ground of territorial jurisdiction. It is his submission that a bare perusal of the first information report would show that the entire cause of action is said to have taken place outside the territorial jurisdiction of this Court. It is alleged that the husband of the respondent no. 7 had been treating her with cruelty and was not even meeting her expenses when she was living with him at Ghaziabad. As per the first information report, the entire thrust of the allegation of committing act of cruelty and causing mental as well as physical harassment to the respondent no. 7 is against the husband within the State of Uttar Pradesh and therefore,



learned counsel submits that the entire first information report is fit to be quashed on the ground of territorial jurisdiction alone.

4. Learned counsel for the respondent no. 7 has, however, opposed the submission of learned counsel representing the petitioner. It is his contention that from the first information report itself it will appear that there was an agreement between the petitioner no. 6 and respondent no. 7 at Nehru Nagar Chauki wherein the petitioner no. 6 had agreed that he would take the respondent no. 7 to her maike at Patna and he would also send a sum of Rs. 10,000/- per month towards expenses. It was also agreed by petitioner no. 6 that he would meet the entire expenses of the delivery of second child as the respondent no. 7 was pregnant at that time but this proved to be a false promise made by her husband. The respondent no. 7 was brought to Patna, she has been residing at Patna with her parents but her husband has not fulfilled his promise and has left the respondent no. '7' to suffer mental agony in absence of any financial assistance to maintain herself and her child. It is submitted that the petitioner nos. 1 and 2 are the persons who are residing at Lucknow but they are interfering with the family life of respondent nos. 6 and 7



and they were encouraging the husband (petitioner no. 6) to take divorce from the respondent no. 7. It is also alleged that the other family members of petitioner no. 6 are involved in abetting and encouraging the petitioner no. 6 in committing the acts of torture against the respondent no. 7. Learned counsel submits that since the respondent no. 7 is suffering from mental agony at Patna, the Patna Court will have territorial jurisdiction to entertain the present case.

5. Learned counsel for the State is present and has opposed the prayer for quashing of the first information report.

6. At this stage, learned counsel for the petitioner submits that he would not be pressing this application on behalf of husband (petitioner no. 6). He has sought permission to withdraw this application as regards petitioner no. 6 at this stage.

7. In view of the prayer made on behalf of petitioners, let the present application with regard to petitioner no. 6 be dismissed as withdrawn.

8. Learned counsel for the petitioner has then argued the matter limited to other petitioners. It is his submission that petitioner nos. 1 and 2 are said to be the people known to the husband of the informant. They are residing at Lucknow and



there is no allegation in the first information report that they ever came to Ghaziabad and abetted the act of torture against the informant.

9. So far as petitioner nos. 3 and 4 are concerned, it is submitted that they are the father-in-law and mother-in-law respectively. In the first information report they have been named as accused but on a reading of the first information report/written complaint it would appear that there is no allegation against them. It is alleged that after the marriage which took place in the year 2003 immediately thereafter, the 'Sasural people' and her husband were torturing the informant. There is no allegation at all that her mother-in-law and/or the father-in-law were committing any act of torture against the informant. The word 'Sasural wale' is too vague. The informant has alleged that she was thrown out of the house and thereafter, she was living with her husband and 2 and ½ years old daughter at Nehru Nagar at Ghaziabad. The petitioner nos. 3 and 4 who are father-in-law and mother-in-law respectively are residing at Aventika Chiranjeev Bihar under Kavi Nagar Police Station and therefore, learned counsel submitted that on the face of the first information report it is clear that the informant along with her husband and 2 and ½ years old



daughter had been living separately with petitioner nos. 3 and 4.

10. From the written complaint, it is clear that in fact the whole thrust of the allegations are against the husband. It is submitted that in the first information report there is no allegation against father-in-law, mother-in-law and the dewar (petitioner no. 5). It is his contention that so far as petitioner nos. 3, 4 and 5 are concerned, admittedly they are living separately and they have been implicated in the present case only because they happens to be the close kith and kin of the husband of the respondent no. 7. Learned counsel submits that the petitioner nos. 1 and 2 are only the people known to the husband and they are living at Lucknow, there is no allegation of torture against them and their involvement is apparently for the reason that they were allegedly, taking money from the husband of the informant.

11. In course of argument learned counsel representing the petitioner has relied upon a judgment of the Hon'ble Supreme Court in the case of **Y. Abraham Ajith and Others v. Inspector of Police, Chennai and another** reported in **AIR 2004 Supreme Court 4286** to contend that the factual scenario disclosed by the informant in the present



case does not show that petitioner nos. 1 to 5 have committed any cognizable offence within the territorial jurisdiction of this Court. It is submitted that the factual position in this case clearly shows that the informant was living with her husband and 2 and ½ years old daughter separately at Ghaziabad and thereafter, there is not even a whisper of allegation of any demand of dowry or commission of any act constituting an offence at Patna, therefore, it is contended that in terms of Section 177 of the Code of Criminal Procedure it is only the place where the offence was committed will have the jurisdiction and the logic of Section 178 (C) of the Code relating to continuance of the offence cannot be applied in the facts of the present case against petitioner nos. 1 to 5.

12. It is submitted that the respondent no. 7 came back to Patna after she reached to an agreement with her husband at Ghaziabad. Petitioners no. 1 to 5 are not the parties to that agreement and/or they were not knowing it when did she agree with her husband to go to Patna on the condition of payment of expenses. It is also pointed out that presently the respondent no. 7 is getting a sum of Rs. 5000/- per month as maintenance which she had admitted in her interlocutory application.



13. Relying upon the judgment of the Hon'ble Apex Court in the case of **Neelu Chopra and Anotehr Versus Bharti** reported in (2009) 10 SCC 184, learned counsel submits that the Hon'ble Apex Court has held in paragraph 9 and 10 of the said judgment that "in order to lodge a proper complaint, mere mention of sections and the language of those those sections is not the be all and end all of the matter. What is required to be brought to the notice of the court is the particulars of the offence committed by each and every accused and the role played by each and every accused in committing of that offence." In paragraph 10 the Hon'ble Apex Court in the case of **Neelu Chopra** (Supra) held as under:

"When we see the complaint, the complaint is sadly vague. It does not show as to which accused has committed what offence and what is the exact role played by these appellants in the commission of offence. There could be said something against Rajesh, as the allegations are made against him more precisely but he is no more and has already expired. Under such circumstances, it would be an abuse of the process of law to allow the prosecution to continue against the aged parents of Rajesh, the present appellants herein, on the basis of a vague and general complaint which is silent about



the precise acts of the appellants.”

14. Further learned counsel placed reliance on the judgment rendered by the Hon’ble Supreme Court in the case of **Pritam Ashok Sadaphule and Others Versus State of Maharashtra and Another** reported in **(2015) 11 SCC 769** in which it has been noticed by the Hon’ble Supreme Court that on a vague and omnibus allegation the father, mother, brother and sister of the husband could not be prosecuted. In such cases the Hon’ble Supreme Court has been pleased to quash the criminal proceeding to meet the ends of justice.

15. Learned counsel representing the State as well as respondent no. 7 have opposed the reliefs prayed on behalf of the petitioner nos. 1 to 5. It is submitted that the first information report duly discloses commission of cognizable offences by these petitioners.

Consideration

16. In the facts of the present case, as regards the petitioner nos. 1 to 5, it is apparent that there is a totally vague allegation in the first information report saying that after the marriage the Sasural people were demanding dowry and then the informant was thrown out of the house. It is the own case of the informant that she was residing separately



with her husband and 2 and ½ years old child at Ghaziabad and her in-laws and dewar were living at a different place under different Police Station. Once she started living with her husband and her daughter separately, thereafter, she was allegedly, tortured by her husband, there is no allegation that the mother-in-law, father-in-law and dewar ever visited her at her residence and indulged in any act of torture. The informant got pregnant in the year 2011 for the second time in the separate house where she was residing with her husband, allegation is that the husband was assaulting her and he was not giving her money for expenses. These are the specific allegations only against the husband. She has further admitted that she came back to Patna with her parents for safe delivery because nobody was there to look after her. At this stage, she has alleged that her husband was going to Lucknow leaving her alone at Ghaziabad and he was also going to his parent's home on many occasions leaving the informant alone in her house. This was the complaint by the informant to Singhani Gate Police Station at Ghaziabad and thereafter, Nehru Nagar Chauki at Ghaziabad had talked to both husband and wife at the Police Station and in his presence a written compromise was signed by both of them wherein the husband agreed to



pay Rs. 10,000/- per month to the informant to meet her expenses and he also promised to meet the delivery expenses which promise he did not fulfill after the informant came to Patna.

17. It is, therefore, apparent that neither there is any allegation of assault or torture against the mother-in-law, father-in-law and dewar nor these persons can be said to have continued with any kind of torture at Patna. Petitioner nos. 1 and 2 are residing at Lucknow, they are not the family members of the husband of the informant but may have been named as accused on a totally vague allegation that they were instigating the husband of the petitioner to take divorce. In the facts of this case it is evident that petitioner nos. 1 and 2 are being implicated in this case only because they are having friendship with the husband of the informant and to whom the husband was going during his visit to Lucknow. Taking a cue from the aforesaid judgments of the Hon'ble Supreme Court, I am of the considered opinion that the petitioner nos. 1 and 2 as also petitioner nos. 3, 4 and 5 cannot be prosecuted as no prima facie case is made out against them from the first information report. They have also not committed any cognizable offence within the jurisdiction at Patna. Therefore,



in their respect no part of the cause of action may be said to have arisen at Patna. The impleadment of the petitioner nos. 1 to 5 are only because they happen to be the friends, father, mother and younger brother of the husband of the informant. In the case of **Pritam Ashok Sadaphule** (Supra) the Hon'ble Supreme Court had, taking note of the allegation mentioned in the complaint petition, found that the allegation mentioned against appellant nos. 2 to 5 in the said case were vague and omnibus. They were the father, mother, younger brother and sister of the appellant no. 1 (husband). In the present case, on a careful reading of the complaint lodged by respondent no. 7, this Court finds that the allegations mentioned against petitioner nos. 1 to 5 are totally vague and no inference maybe drawn against them. No offence under Section 498A of the Indian Penal Code and Sections 3 / 4 of Dowry Prohibition Act is prima facie made out from the first information report.

18. In the considered opinion of this Court, in the interest of justice the first information report bearing Danapur P. S. Case No. 300 of 2014 dated 02.07.2014 as regards petitioners no. 1 , 2, 3, 4 and 5 is fit to be quashed and is accordingly, quashed. The first information report against



petitioner no. 6 would, however, survive and the investigating agency shall be free to proceed with the case in accordance with law.

19. This application is thus, partly allowed.

(Rajeev Ranjan Prasad, J)

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