

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30415 of 2014

Arising out of PS Case No.2167 Year 2009 Thana Siwan Complaint Case District Siwan

Basant Kumar Srivastava Son of Sri Lal Babu Srivastava resident of Power House Road, Mohalla Chutia, P.S.- Chutia, Distt.- Ranchi, Jharkhand

... .. Petitioner

Versus

1. The State of Bihar
2. Kanchan Srivastava Wife of Basant Kumar Srivastava resident of village- Maharani, P.S.- Muhammadpur, District- Gopalganj at Present Power House Road, behind Kali School, P.S.- Chutia District- Ranchi, Pancharan Prasad Srivastava, resident of village- Bathua, P.S.- Majhagarh District- Gopalganj, Presently C/o Satyendra Prasad, resident of mohalla- Shastri Nagar, District- Siwan

... .. Opposite Parties

Appearance :

For the Petitioner : Mr. Rana Vikram Singh, Advocate
For the State : Smt. Renuka Ratnakar, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date : 04-05-2018

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

2. The petitioner seeks quashing of the cognizance order dated 04.06.2010, passed by learned SDJM, Siwan in Complaint Case No.2167/09 (Trial No.2534/13) thereby taking cognizance of the offence under Sections 498A/34 of the Indian Penal Code and directed to issue summons against the petitioner.

3. The brief fact giving rise to the case is that the complainant was married with the petitioner on 31.01.2004 at village Bathua in the district of Gopalganj and after marriage she came to her matrimonial home situated in Ranchi. It is alleged that even at the time of marriage further Rs.2,00,000/- was demanded by the



petitioner and others, anyhow on intervention of well wishers marriage was performed but later on at the matrimonial home, she was tortured for realizing demand of dowry, ultimately she was ousted and left at Gopalganj by the accused persons.

4. Learned counsel for the petitioner submits that the concerned court taking cognizance has got no jurisdiction to take cognizance of the offence as it lacks territorial jurisdiction for the reason that no part of the alleged occurrence was committed within the jurisdiction of the court. As per allegation, the demand of dowry was made in Ranchi at the matrimonial home. Further submission is that in fact the entire prosecution is malicious in nature. The petitioner prior to institution of the present case had filed a divorce suit, Matrimonial Suit No.164/09 on 13.07.2009 only after receiving notice in the divorce suit filed on the ground of desertion and cruelty, the present complaint has been filed. It is further submitted that the statement of three enquiry witnesses also do not disclose any part of alleged offence ever committed at Siwan.

5. Learned counsel for the State submits that the learned court below has taken cognizance considering the materials on record. However, opposite party no.2 did not appear even after sending notices by both processes to her permanent address i.e. her parents home. Notice was also sent to opposite party no.2 through the



learned counsel appearing on her behalf in the court below and the same was received despite that she has not appeared.

6. Having considered rival submissions of the parties and on perusal of the record, the Court finds that the allegation of making demand of further dowry by the accused persons from the complainant was made in Ranchi at the matrimonial home of the complainant. No part of the occurrence relating to demand of dowry and act of torture was alleged to have been committed within the territorial jurisdiction of Siwan. Chapter XIII of the Code of Criminal Procedure, 1973 deals with the jurisdiction of criminal courts in inquiries and trials. An offence is to be inquired and tried by a Court within whose local jurisdiction the offence was committed and in case of uncertainty regarding fixation of local area having jurisdiction in such situation any one of such local area wherein even a part of the offence was committed or in case of a continuing offence and where offence consists of several acts done in different local areas then jurisdiction lies in any of those areas. However, considering the accusation and material on record in present case, no part of the offence regarding demand of further dowry or torture appears to have been committed within the local jurisdiction of Siwan, so the court below has no jurisdiction to take cognizance in the matter for entering into inquiry or trial. In the case of *Y. Abraham Ajith & Ors. v. Inspector of Police, Chennai & Anr.*, reported in



(2004) 8 SCC 100, the Apex Court has held that a case cannot be tried by a court wherein no part of offence was committed. Similar is the view expressed by the Apex Court in the case of *Bhura Ram & Ors. v. State of Rajasthan & Anr.*, reported in (2008) 11 SCC 103 as well as in the case of *Amarendu Jyoti & Ors. v. State of Chhattisgarh & Ors.*, reported in (2014) 12 SCC 362. Having considered the aforesaid principles laid down by the Apex Court with regard to territorial jurisdiction of the courts for inquiry and trial of a case and applying the same in the present context, the court of Siwan has got no territorial jurisdiction for trial of the case in hand, so the impugned cognizance order dated 04.06.2010, passed by learned SDJM, Siwan in Complaint Case No.2167/09 (Trial No.2534/13) as well as the subsequent criminal proceeding in that jurisdiction is set aside. Howsoever, let the complaint be returned to the complainant to file the same before appropriate court to deal with in accordance with law.

7. The quashing application stands allowed with the aforesaid observations.

(Arun Kumar, J)

S.KUMAR/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	16.05.2018
Transmission Date	16.05.2018

