

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7379 of 2015**

Arising Out of PS. Case No.-4 Year-2014 Thana- HAYAGHAT District- Darbhanga

Md. Iqbal Nasir Sonof Late Noorun Nabi Resident of Rahua Rampur, P.S. Warisnagar, District - Samastipur, presently at R/o 129A, R-Extension Mohan Garden, Uttam Nagar, New Delhi 110059

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Rizwan Khatoon W/o Md. Iqbal Nasir, D/o Md. Rehmatullah Resident of Rasulpur Bhoya, P.S. Hayaghat, District - Darbhanga, presently at Rizwana Khatoon, W/o Md. Iqbal Nasir, D/o Md. Rehmatullah, R/o N.K. Darranga, P.O. Darranga Mela, District - Welbani, Assam - 781360

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Das, Advocate
For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date : 27-06-2019

Heard learned counsel for the parties.

2. The petitioner is husband of Opposite Party No.2 and is accused for offence under Section 498A and other ancillary offences of the Penal Code as well as offence under Section 3/4 of the Dowry Prohibition Act in connection with Hayaghat P.S. Case No.4 of 2014 brought by Opposite Party No.2.

3. The petitioner has challenged the order of cognizance dated 02.12.2014 passed by Judicial Magistrate, 1st Class, Darbhanga, in the aforesaid case on the basis of the



police report.

4. The only ground of challenge is that a perusal of the FIR would reveal that entire occurrence of demand of dowry and torture allegedly took place at Delhi and no part of occurrence took place within the jurisdiction of the Court at Darbhanga. Therefore, the impugned order suffers from lack of territorial jurisdiction. Contention is that though paternal house of Opposite Party No.2 is within the territorial jurisdiction of Darbhanga Court, however, she actually resides along with her father at Tarranga Mela, Welbani in the state of Assam.

5. The FIR clearly reveals that when the informant reported the matter to her father regarding demand of dowry and torture for the same, the father visited at Delhi and the accused persons asked for Rs.1,25,000/- and only then she would be allowed to live there. They further expelled the informant from the house though the informant was pregnant at that time. Again father of the informant took step for conciliation through well wishers but conciliation failed.

6. The petitioner has stated that he has already filed a case of divorce against Opposite Party No.2 in a Delhi Court.

7. An identical issue was there before the Hon'ble Supreme Court in **Rupali Devi Vs. The State of Uttar Pradesh**



reported in **2019 (2) PLJR SC 255** and the Hon'ble Supreme Court held that even where no overt act of cruelty or harassment is alleged to have been committed by the husband at paternal home where wife had taken shelter, the Court at the parents house has jurisdiction to entertain the complaint under Section 498A of the Indian Penal Code, in paragraphs 14 and 16 of the judgment the Supreme Court held as follows:

“14. “Cruelty” which is the crux of the offence under Section 498A IPC is defined in Black’s Law Dictionary to mean “The intentional and malicious infliction of mental or physical suffering on a living creature, esp. a human; abusive treatment; outrage (Abuse, inhuman treatment, indignity)”. Cruelty can be both physical or mental cruelty. The impact on the mental health of the wife by overt acts on the part of the husband or his relatives; the mental stress and trauma of being driven away from the matrimonial home and her helplessness to go back to the same home for fear of being ill treated are aspects that cannot be



ignored while understanding the meaning of the expression “cruelty” appearing in Section 498A of the Indian Penal Code. The emotional distress or psychological effect on the wife, if not the physical injury, is bound to continue to traumatize the wife even after she leaves the matrimonial home and takes shelter at the parental home. Even if the acts of physical cruelty committed in the matrimonial house may have ceased and such acts do not occur at the parental home, there can be no doubt that the mental trauma and the psychological distress caused by the acts of the husband including verbal exchanges, if any, that had compelled the wife to leave the matrimonial home and take shelter with her parents would continue to persist at the parental home. Mental cruelty borne out of physical cruelty or abusive and humiliating verbal exchanges would continue in the parental home even though there may not be any overt act of physical



cruelty at such place.

16. We, therefore, hold that the courts at the place where the wife takes shelter after leaving or driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, would, dependent on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498A of the Indian Penal Code”

8. In view of the settled proposition aforesaid, there is no merit in the prayer of the petitioner that impugned order suffers from lack of territorial jurisdiction for the apparent reason that there is material on the record to substantiate that torture in the matrimonial house compelled the informant to leave the house; rather she was allegedly expelled from the house and wherever she was residing she was suffering mental torture due to the physical torture committed by the in-laws including the petitioner. There is no dispute that the complainant has permanent place of abode in the territorial jurisdiction of the Darbhanga Court.



9. Hence, this application stands dismissed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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