

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10499 of 2015**

Arising Out of PS. Case No.-2031 Year-2014 Thana- VAISALI COMPLAINT CASE
District- Vaishali

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Krishnadeo Chaurasia S/o Ramdeo Chaurasiya Resident of Village
Madhurapur Akbarpur, P.S. Warisnagar, O.P. Madhurapur, District
Samastipur.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Rani Raj W/o Krishnadeo Chaurasiya Resident of Village Madhurapur
Akbarpur, P.S. Warisnagar, O.P. madhurapur, District Samastipur. At present
D/o Shivshankar Chaurasiya, Resident of Village Sulttanpur, P.S. Industrial
Area, Hajipur, District Vaishali.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bijay Bhushan Prasad
For the Opposite Party/s : Mr.J.Upadhyay, App

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

2 10-05-2019 An order taking cognizance passed by the learned

Court below dated 12.12.2014, in Complaint Case No. 2031 of
2014, T.R. No. 5166 of 2014, for the offences punishable under
Section 498 of the Indian Penal Code and Section 4 of the
Dowry Prohibition Act, is under challenge in the present
application filed under Section 482 of the Code of Criminal
Procedure, 1973 (hereinafter referred to as 'the Code').

2. Learned counsel appearing on behalf of the
petitioner, assailing the impugned order, has submitted with
reference to the complaint petition that most of the occurrence



have taken place outside the jurisdiction of the Hazipur Court and, therefore, the order taking cognizance suffers from jurisdictional error. He has secondly submitted that though in the complaint petition the complainant states that the police had refused to register the First Information Report, there is no material to suggest that the complainant ever approached the Superintendent of Police of the District, complaining non-registration of the First Information Report. He has lastly submitted that since the complainant has remarried, in the interest of justice, the criminal prosecution should be quashed.

3. None of the grounds, canvassed by the petitioner, in my opinion, is sustainable.

4. This is not in dispute that the complainant has been residing within the jurisdiction of Hazipur Court after she had to leave her matrimonial home. It cannot be, therefore, said that no cause of action arose within the territorial jurisdiction of the Court taking cognizance.

5. So far as next contention is concerned, that the complainant ought to have approached the Superintendent of Police, in my considered view, the same cannot be a basis for interfering with the order taking cognizance. In a complaint case, the Judicial Magistrate's duty is confined as to see whether



an offence is made out or not and if the court taking cognizance has jurisdiction, he is duty bound to take cognizance, if an offence is made out. The legality of the order taking cognizance cannot be tested on the ground of the conduct of the complainant of not approaching the Superintendent of Police, so as to ensure registration of the F.I.R.

6. So far as the last argument of the learned counsel for the petitioner is concerned, in my view, it has no force at all. Subsequent remarriage of the complainant cannot be a ground for quashing of a criminal case and order taking cognizance.

7. I do not find any merit in this application for the aforesaid reason.

8. This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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