

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2143 of 2016

Hemalata Samal and another

....

Petitioners

Mr.P.K. Nayak, Advocate

-versus-

State of Odisha

....

Opposite Party

Mrs. S. Patnaik, AGA

CORAM:

JUSTICE CHITTARANJAN DASH

Order No.

ORDER

16.09.2022

03.

1. Heard learned counsel for the Petitioners as well as learned counsel for the State.

2. By means of this petition, the Petitioners seeks to quash the order of cognizance dated 5th April 2016 passed by the learned JMFC, Bissamcuttack in G.R. Case No.336 of 2015. According to the learned counsel for the Petitioner, on the basis of F.I.R. lodged by the victim wife in Muniguda Police Station, the learned Magistrate i.e. the JMFC, Bissamcuttack took cognizance of the offence besides other offences under the Indian Penal Code including the offence U/s 498A. According to the Learned in absence of cause of action having taken place within the jurisdiction of Muniguda it is uncalled on the part of the learned court below to take cognizance pursuant to the F.I.R. thereby the court became mechanical in passing the order and the being without application of judicial mind requires interference.

3. Learned counsel for the State Mrs. Patnaik, on the other hand, submitted that the F.I.R. reveals that the victim wife after being subjected to ill-treatment and torture both mental and physical and she having been driven out of the matrimonial house by the in-laws came to the residence of her parents at Muniguda. Consequently, there is no illegality committed by the learned Magistrate in assuming territorial jurisdiction and taking the cognizance and the impugned order taking cognizance is absolutely legal and justified.

4. Perusal of the F.I.R., as submitted along with the Petition by learned counsel for the Petitioner clearly discloses that the victim wife upon subjected to torture both mentally and physically and having dragged out of the matrimonial house got shelter by her parents at Muniguda. In the matter of ***Rupali Devi v. State of Uttar Pradesh***, 2019 (5) SCC 384, the Apex Court held as under:

“It is not necessary that a complaint should be filed only at the place of the matrimonial home. 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 498- A of the Indian Penal Code.”

5. The Apex Court further held that:

“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.”

6. The narration in the F.I.R. referred to above clearly reveals that the victim wife was driven out by her in laws pursuant to the mental and physical torture and on being informed to her parents, she was taken to the parental house at Muniguda where she took shelter. For the trauma that she had to undergo for having subjected to the mental cruelty and humiliation that continued with her in the parental home even though there appear no apparent physical overt act, the complaint was lodged by the victim wife at Muniguda i.e. the place where she took shelter with her parents attracts the territorial jurisdiction at Muniguda. Consequently, there is no illegality in entertaining the complaint and the cognizance taken there upon by the learned court of JMFC, Bissamcuttack, cannot be faulted with.

7. Accordingly, the Petitioner failed to make out a case to invoke jurisdiction of this Court under Section 482 Cr.P.C. for interference with the impugned order dated 5th April, 2016.

8. The CRLMC is dismissed being devoid of merit.

(Chittaranjan Dash)
Judge