

CRR 3339 of 2008

In the matter of : Ramnarayan @Jeetram Gupta & Ors.

Mr. Prattay Kumar Khan ... for the petitioners.

Mr. N. P. Agarwala
Mr. P. Bose ... for the State

This application under Section 482 of the Code of Criminal Procedure challenges the proceeding in Complaint Case No. 290 of 2008 under Sections 498A/323 of the Indian Penal Code.

Briefly stated that petitioner no. 1 is the husband of the opposite party no. 2 and they have been staying apart from 18.2.2007. The opposite party no. 2 filed a suit for dissolution of marriage on 27.12.2007 before the learned District Judge, Bankura and thereafter she took out a petition of complaint under Sections 498A/323 of the Indian Penal Code before the learned Chief Judicial Magistrate, Bankura. After taking cognizance. Learned Chief Judicial Magistrate, Bankura was pleased to transfer the case to the Court of learned Judicial Magistrate, 3rd Court, Bankura for disposal and after complying with the provision of Section 200 of Cr.P.C. Learned Magistrate was pleased to issue process calling upon the petitioner and his parents, since deceased, to surrender to the jurisdiction of the learned Trial Court.

Mr. Khan, learned counsel appearing on behalf of the petitioner drawing my attention to the cause title of the petition of complaint submits that admittedly the accused Ramnarayan @Jeetram Gupta, the husband of the complainant in the criminal

proceeding is a resident of Motiganj within the District – Gonda, U.P. Learned Judicial Magistrate, 3rd Court, Bankura however, did not comply with the mandatory provision as laid down under Section 202 of the Cr.P.C.

I have perused the petition of complaint. The accused petitioner no. 1 is a resident of a place in Uttar Pradesh, beyond the territorial jurisdiction of the learned Judicial Magistrate, 3rd Court, Bankura, therefore, it was incumbent upon the learned Judicial Magistrate, 3rd Court, Bankura to comply with the provision of Section 202 of the Cr.P.C. which he has failed to adhere to.

Under such circumstances, I am inclined to quash the order dated 29.7.2008 and remit the case to the learned Judicial Magistrate, 3rd Court, Bankura for necessary compliance of the statutory provision of Section 202 of the Cr.P.C.

With this observation, the criminal revision is disposed of.

Department is directed to accept the Vakalatnama to be submitted by Mr. Prattay Kumar Khan, learned counsel who is representing the petitioners though not properly executed by his client.

Copy of the order be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)