

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28160 of 2018

Arising Out of PS. Case No.-486 Year-2017 Thana- DARBHANGA COMPLAINT CASE
District- Darbhanga

=====

Kamni Devi Wife of Shri Bhola Sahni, D/o Sri Ramesh Sahni, Resident of Village- Rebra, Police Station- Khanpur, District- Samastipur. At present residing at Village- Muksudpur, Police Station- Hayaghat, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bhola Sahni, Son of Late Yogendra Sahni,
3. Sibia Devi, Wife of Late Yogendra Sahni,
4. Binod Sahni, Son of Late Yogendra Sahni,
5. Indu Devi, Wife of Binod Sahni. All are Residents of Village- Rebra, Police Station- Khanpur, District- Samastipur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Upendra Kumar Singh, Advocate
For the Opposite Party/s : Mr. Ram Naresh Ray, APP

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

7 24-03-2026 Heard the learned counsel for the petitioner as well as the learned A.P.P for the State.

2. The present application has been filed under Section 482 of the Code of Criminal Procedure for quashing the order dated 16.12.2017 (hereinafter referred to as ‘impugned order’) passed by the learned District and Sessions Judge, Darbhanga in Criminal Revision No. 384 of 2017 (hereinafter referred to as ‘Revisional Court’), whereby the learned Revisional Court set aside the order dated 14.11.2017 passed by



the learned Sub-Divisional Judicial Magistrate, Darbhanga (hereinafter referred to as 'Trial Court') in Complaint Case No. 486 of 2017 taking cognizance of offences under Section 323 of the Indian Penal Code, Section 498A of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 against the accused persons (O.P. Nos. 2 to 5).

3. The prosecution case, in brief, that the complainant(petitioner herein) was married to accused Bhola Sahni (O.P. No.2) on 27.06.2014 and sufficient gifts were given by her parents at the time of marriage according to their capacity. After the marriage, when the petitioner went to her matrimonial home, she was allegedly subjected to cruelty and harassment by her husband and his family members on account of non-fulfillment of their demand for a sum of Rs. 1,00,000/- as dowry. It is further alleged that on 13.03.2015 the accused persons abused and assaulted the complainant and attempted to set her on fire by pouring kerosene oil, however, on her alarm nearby persons arrived and her life was saved. The petitioner thereafter informed her parents about the occurrence and efforts were made through local villagers to settle the dispute. A *Panchayati* was also held, pursuant to which the complainant returned to her matrimonial home, but the demand of dowry and



alleged ill-treatment continued. Subsequently, on 14.03.2017 the petitioner was again assaulted by her husband and was ultimately driven out from her matrimonial home after snatching her belongings.

4. On the basis of the said allegations, the complaint petition was filed in the court of learned Chief Judicial Magistrate and it was transferred to the Trial Court for enquiry and disposal. The learned Trial Court, after examining the solemn affirmation of complainant and two inquiry witnesses under Section 202 of the Code of Criminal Procedure, and upon perusal of the materials available on record, found sufficient grounds to proceed and accordingly took cognizance of the offences under Sections 323, 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, 1961 and directed issuance of summons to the accused persons(O.P. Nos. 2 to 5) to face trial *vide* order dated 14.11.2017.

5. Being aggrieved by the order dated 14.11.2017 of taking cognizance and directing issuance of summons, the O.P. Nos. 2 to 5 preferred Criminal Revision before the learned Revisional Court assailing the legality and propriety of the said order. The learned Revisional Court after hearing the contentions of parties and on perusal of materials on record



inter alia observed that entire alleged occurrence took place within the territorial jurisdiction of Samastipur district and set aside the cognizance order on the ground of lack of territorial jurisdiction *vide* order dated 16.12.2007. Petitioner, being aggrieved, has preferred this application praying to quash the impugned order.

6. Learned counsel for the petitioner submits that the impugned order dated 16.12.2017 passed by the learned Revisional Court is wholly unsustainable in the eye of law. He further submits that although the petitioner/complainant was impleaded as Opposite Party No. 2 in the said revision, the learned Revisional Court proceeded to set aside the order dated 14.11.2017 passed by the learned Trial Court without issuing notice to the petitioner and without affording her any opportunity of hearing which is a sheer violation of the settled principles of natural justice and has caused serious prejudice to the petitioner.

7. Learned counsel further submits that the learned Revisional Court set aside the order taking cognizance merely on the ground of territorial jurisdiction without considering the materials available on record and without hearing the complainant, whose rights were directly affected by the said



order. In support of his contention, learned counsel has placed reliance upon the decision of the Hon'ble Supreme Court in ***Niranjan Lal Chippa v. Ajay Kumar Joshi and Ors.*** reported in ***(2015) 13 SCC 609***, wherein it has been held that before passing any order in revision which adversely affects a party, an opportunity of hearing must be afforded to such party. The Learned counsel has also relied on Hon'ble Supreme Court Judgments in case of ***Rupali Devi v. State of Uttar Pradesh and Ors.*** reported in ***(2019) 5 SCC 384*** ; ***Ruhi v. Anees Ahmad and Ors.*** reported in ***(2022) 15 SCC 787*** wherein it was held that courts at the place where the wife takes shelter after leaving the matrimonial home due to cruelty would also have jurisdiction to entertain a complaint under Section 498A of the Indian Penal Code, as the consequence of the cruelty continue to operate at that place. It is, therefore, submitted that the impugned order is liable to be set aside in exercise of the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure.

8. *Per contra*, learned A.P.P for the State submits that the learned Revisional Court has rightly exercised the revisional jurisdiction in setting aside the order dated 14.11.2017 passed by the learned trial court, taking cognizance of the alleged offences. It is submitted that the allegations made



in the complaint petition clearly disclose that the entire alleged occurrence, including the demand of dowry and the alleged acts of cruelty, had taken place at the matrimonial home of the complainant which is situated within the territorial jurisdiction of District Samastipur. He further submitted that since no part of the alleged occurrence took place within the territorial jurisdiction of Darbhanga, the learned Trial Court had no jurisdiction to entertain the complaint or to take cognizance of the alleged offences.

9. Learned A.P.P further submits that the Revisional Court, upon careful examination of the allegations made in the complaint petition and the materials available on record, rightly came to the conclusion that the Court at Darbhanga lacked territorial jurisdiction to proceed with the matter. It is submitted that the Revisional Court has merely corrected the jurisdictional error committed by the learned Trial Court and the impugned order does not suffer from any illegality or infirmity warranting interference by this Court in exercise of its inherent jurisdiction under Section 482 of the Code of Criminal Procedure. It is, therefore, submitted that the present application is devoid of merit and is liable to be dismissed.

10. Before proceeding further, it would be apposite



to deal with the settled position of law with regard to the exercise of inherent powers under Section 482 of the Code of Criminal Procedure. It is well settled that the inherent jurisdiction of the High Court under Section 482 Cr.P.C. is of wide amplitude, however, such power is required to be exercised sparingly, with circumspection and in exceptional cases, so as to prevent abuse of the process of the Court or otherwise to secure the ends of justice.

11. Having heard the learned counsel for petitioner as well as the learned A.P.P for the State and upon perusal of the materials available on record, the issue which falls for consideration is as to “*whether the impugned order of the Revisional Court calls for interference by this Court in exercise of its inherent powers under Section 482 Cr.P.C.*”.

12. It is appropriate here to discuss to the provisions relating to territorial jurisdiction under the Code of Criminal Procedure, 1973. Ordinarily, in terms of Section 177 of the Code of Criminal Procedure, every offence shall be inquired into and tried by a court within whose local jurisdiction the offence was committed. However, the said rule is not absolute and is subject to the exceptions provided under Sections 178 and 179 of the Code, which stipulate that where an offence is a



continuing one, or where the consequence of an act ensues in another place, the courts within whose jurisdiction such consequences occur would also have the jurisdiction to inquire into and try the offence.

13. The Hon'ble Supreme Court in case ***Rupali Devi(supra)*** has vividly explained the issue of jurisdiction with regard to matrimonial offences and has held as under:

“8. Section 178 creates an exception to the “ordinary rule” engrafted in Section 177 by permitting the courts in another local area where the offence is partly committed to take cognizance. Also if the offence committed in one local area continues in another local area, the courts in the latter place would be competent to take cognizance of the matter. Under Section 179, if by reason of the consequences emanating from a criminal act an offence is occasioned in another jurisdiction, the court in that jurisdiction would also be competent to take cognizance. Thus, if an offence is committed partly in one place and partly in another; or if the offence is a continuing offence or where the consequences of a criminal act result in an offence being committed at another place, the exception to the “ordinary rule” would be attracted and the courts within whose jurisdiction the criminal act is committed will cease to have exclusive jurisdiction to try the offence.

14. “Cruelty” which is the crux of the offence under Section 498-A 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 498-A of the Penal Code. The emotional distress or psychological effect on the wife, if not the physical injury, is bound to continue to traumatise 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.

***15.** The Protection of Women from Domestic Violence Act, as the object behind its enactment would indicate, is to provide a civil remedy to victims of domestic violence as against the remedy in criminal law which is what is provided under Section 498-A of the Penal Code. The definition of “domestic violence” in the Protection of Women from Domestic Violence Act, 2005 contemplates harm or injuries that endanger the health, safety, life, limb or well-being, whether mental or physical, as well as emotional abuse. The said definition would certainly,*



for reasons stated above, have a close connection with Explanations (a) & (b) to Section 498-A of the Penal Code which define “cruelty”. The provisions contained in Section 498-A of the Penal Code, undoubtedly, encompass both mental as well as the physical well-being of the wife. Even the silence of the wife may have an underlying element of an emotional distress and mental agony. Her sufferings at the parental home though may be directly attributable to commission of acts of cruelty by the husband at the matrimonial home would, undoubtedly, be the consequences of the acts committed at the matrimonial home. Such consequences, by itself, would amount to distinct offences committed at the parental home where she has taken shelter. The adverse effects on the mental health in the parental home though on account of the acts committed in the matrimonial home would, in our considered view, amount to commission of cruelty within the meaning of Section 498-A at the parental home. The consequences of the cruelty committed at the matrimonial home results in repeated offences being committed at the parental home. This is the kind of offences contemplated under Section 179 CrPC which would squarely be applicable to the present case as an answer to the question raised.

(emphasis supplied)”

14. The law laid down in ***Rupali Devi***(*supra*) has been reiterated by Hon’ble Supreme in case of ***Ruhi v. Anees Ahmad and Ors.*** reported in (2022) 15 SCC 787.

15. The Hon’ble Supreme Court in ***Priya Indoria v. State of Karnataka and Ors.*** reported in (2024) 4 SCC 749 has



held as under:

“105. Another issue that calls for reiteration is, whether, the ordinary place of inquiry and trial would include the place where the complainant wife resides after being separated from her husband. The position of law regarding the ordinary place of investigation and trial as per Section 177CrPC, especially in matrimonial cases alleging cruelty and domestic violence, alleged by the wife, has advanced from the view held in State of Bihar v. Deokaran Nenshi [State of Bihar v. Deokaran Nenshi, (1972) 2 SCC 890 : 1973 SCC (Cri) 114] ; Sujata Mukherjee v. Prashant Kumar Mukherjee [Sujata Mukherjee v. Prashant Kumar Mukherjee, (1997) 5 SCC 30 : 1997 SCC (Cri) 673] ; Y. Abraham Ajith v. State of T.N. [Y. Abraham Ajith v. State of T.N., (2004) 8 SCC 100 : 2004 SCC (Cri) 2134] , Ramesh v. State of T.N. [Ramesh v. State of T.N., (2005) 3 SCC 507 : 2005 SCC (Cri) 735] ; Manish Ratan v. State of M.P. [Manish Ratan v. State of M.P., (2007) 1 SCC 262 : (2007) 1 SCC (Cri) 336] that if none of the ingredients constituting the offence can be said to have occurred within the local jurisdiction, that jurisdiction cannot be the ordinary place of investigation and trial of a matrimonial offence. A three-Judge Bench of this Court has however clarified in Rupali Devi v. State of U.P. [Rupali Devi v. State of U.P., (2019) 5 SCC 384 : (2019) 2 SCC (Cri) 558] (“Rupali Devi”) that adverse effects on mental health of the wife even while residing in her parental home on account of the acts committed in the matrimonial home would amount to commission of cruelty within the meaning of Section 498-A at the parental home. It was held that the courts at the place where the wife takes shelter after leaving or being driven away from the matrimonial



home on account of acts of cruelty committed by the husband or his relatives, would, depending on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498-A IPC.”

16. This Court has given anxious consideration to the materials available on record as well as the reasoning assigned by the learned Revisional Court while passing the impugned order. It appears that the learned Revisional Court set aside the order dated 14.11.2017 passed by the learned Trial Court taking cognizance of the offences on the ground that the alleged acts of cruelty and demand of dowry had taken place within the territorial jurisdiction of District Samastipur and, therefore, the court at Darbhanga lacked territorial jurisdiction to entertain the complaint. The Revisional Court accordingly concluded that the order taking cognizance was without jurisdiction and liable to be set aside. However, upon careful scrutiny, this Court finds that the approach adopted by the learned Revisional Court while determining the question of territorial jurisdiction does not appear to be in consonance with the settled legal principles governing matrimonial offences, particularly those arising under the provisions relating to cruelty against a married woman.



17. It is now well settled that offences relating to cruelty inflicted upon a married woman within the meaning of Section 498A of the Indian Penal Code cannot always be restricted to the place where the physical acts of cruelty were initially committed. Matrimonial cruelty often manifests itself not only in the form of physical assault but also through persistent harassment, humiliation, mental torture and coercive demands for dowry. 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 consequences of such conduct frequently extend beyond the confines of the matrimonial home and continue to affect the mental and emotional well-being of the aggrieved woman even after she is forced to leave the matrimonial house. Thus, the determination of territorial jurisdiction in such cases cannot be confined to a narrow or technical interpretation limited only to the place where the initial acts were committed.

18. The Hon'ble Supreme Court has elaborately considered this aspect in ***Rupali Devi*** (*supra*) wherein it has



been held that the impact of cruelty inflicted upon a married woman at her matrimonial home does not cease merely because she leaves that place. The Hon'ble Supreme Court has observed that when a woman, having been subjected to cruelty at her matrimonial home, is compelled to take shelter at her parental home, the mental trauma and emotional distress suffered by her at that place are direct consequences of the acts of cruelty committed by the husband or his relatives. Therefore, the courts within whose territorial jurisdiction the aggrieved woman resides after leaving the matrimonial home would also have jurisdiction to entertain the complaint. The Supreme Court has thus recognized that the offence under Section 498A of I.P.C. may, in appropriate cases, partake the character of a continuing offence, extending its effects to the place where the victim takes refuge.

19. The aforesaid legal position has been reiterated and further explained by the Hon'ble Supreme Court in ***Ruhi**(supra)* and ***Priya Indoria**(supra)*, wherein it has been emphasized that the place where the aggrieved woman is compelled to reside after being driven out from her matrimonial home cannot be ignored while determining territorial jurisdiction. The Hon'ble Supreme Court has held that when the



wife is forced to take shelter at her parental home due to acts of cruelty committed at the matrimonial home, the consequences suffered by her at the parental home constitute part of the same transaction and, therefore, the courts having jurisdiction over that area would also be competent to entertain the complaint.

20. Applying the aforesaid well-settled principles to the facts of the present case, it appears from the allegations made in the complaint petition that the complainant was subjected to cruelty, harassment and assault on account of dowry demand at her matrimonial home and was ultimately driven out therefrom. Thereafter she took shelter at her parental home and from there initiated the complaint proceedings before the competent court at Darbhanga. In such circumstances, the place where the complainant took refuge and where she continued to suffer the consequences of the alleged cruelty would clearly constitute a part of the cause of action.

21. In view of the aforesaid settled legal position, this Court is of the considered opinion that the trial court cannot be said to have lacked territorial jurisdiction to entertain the complaint petition and proceed with the matter in accordance with law. The learned Revisional Court, while setting aside the order taking cognizance, failed to properly appreciate the scope



and ambit of the law governing territorial jurisdiction in matrimonial offences as laid down by the Hon'ble Supreme Court in the aforesaid decisions. The impugned order thus suffers from a manifest error of law and cannot be sustained. Consequently, the impugned order passed by the Learned Revisional Court setting aside the cognizance order on the ground of lack of territorial jurisdiction is liable to be interfered with and set aside in the end of justice.

22. Accordingly, the impugned order of the learned Revisional Court dated 16.12.2017 is hereby quashed and set-aside. The matter is remanded back to the learned Revisional court to pass a fresh order in accordance with law after hearing the parties.

23. The present application is, accordingly, allowed.

24. Let a copy of this order be communicated to the Court concerned forthwith.

(Sunil Dutta Mishra, J)

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