
(2007) 08 UK CK 0020

In the Uttarakhand High Court

Case No : Criminal Miscellaneous App. No. 401 of 2007

Beena Prakash and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 21-08-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 177, 178, 179, 482

Dowry Prohibition Act, 1961 — Section 3, 4

Penal Code, 1860 (IPC) — Section 323, 406, 498 A, 498A, 504

Citation : (2007) NCC 177

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Advocate : Arvind Vashistha and Mr. Yogesh Pandey, for the Appellant; P.B. Goswami, Learned counsel, for the Respondent

Final Decision : Allowed

Judgement

Hon'ble Prafulla C. Pant, J.—By means of this petition, moved u/s 482 of Code of Criminal Procedure, 1973 (herein after referred as Cr.P.C), the petitioners have sought quashing of the proceedings of criminal case No. 934 of 2007, relating to offences punishable under sections 498 A, 323, 504 and 506 I.P.C. and one punishable u/s 3/4 Dowry Prohibition Act, 1961, State Vs. Harish Goswami and others, pending in the court of Judicial Magistrate, Khatima. Heard learned counsel for the parties.

Brief facts of the case are that respondent No. 2- Renuka Goswami, lodged First Information Report with P.S. Khatima, alleging that she got married to Manish Goswami on 07.05.2004, in Navi Mumbai. It is alleged in the First Information Report that her husband- Harish Goswami, petitioners- Prem Giri Goswami (father-in-law), Smt. Savitri Goswami (mother-in-law) and Smt. Beena (Sister-in-law), were not happy with the dowry given by her parents. It is further alleged in the report that she was harassed by her husband and in-laws for non fulfillment of demand of dowry. The complainant- Renuka Goswami (respondent No. 2) has

stated in the First Information Report that in February 2006, she was ousted from her husband's house in Mumbai, for non fulfillment of demand of dowry and since then she is living in her parents' house in Khatima. It appears that after investigation, the police submitted charge sheet against accused, including the petitioners. Consequently, the charge sheet was registered as criminal case No. 934 of 2007, by Judicial Magistrate, Khatima, and summons were issued against the accused (including the petitioners) to face trial for the offences punishable under Sections 498 A, 323, 504 and 506 I.P.C. and one punishable u/s 3/4 Dowry Prohibition Act, 1961. Hence this petition.

2. Learned counsel for the petitioners drew attention of this Court to principle of law laid down in *Manish Ratan and others Vs. State of M.P. and another* (2007) 1 Supreme Court Cases 262 and *Y. Abraham Ajith and others Vs. Inspector of Police* (2004) 8 Supreme Court Cases 100, and it is argued that Judicial Magistrate, at Khatima, District Udham Singh Nagar, has no jurisdiction to try the offences allegedly committed within the territorial jurisdiction of Mumbai. I have gone through the said case laws. Both these cases pertain to the offence punishable u/s 498-A I.P.C. In these cases, the Apex Court has held that in view of provision of Section 177 and 178 of Cr.P.C., only the court having territorial jurisdiction of the place where the offence is committed are competent to take the cognizance of the offence and not the court of the place where the complainant is living with her parents after leaving matrimonial home. In the case of *Manish Ratan's* (Supra), the Apex Court has exercised its power u/s 142 of Constitution of India, and transferred the case from Datia (girl's parents house) to Jabalpur, where the offence is allegedly committed. In *Y Abraham Ajith's* case (Supra), the word "cause of action" has been explained and it has been held that it is only the court at Nagercoil, where the offence is allegedly committed, which is competent to take the cognizance of the offence and not the Magistrate at Chennai, where the complaint was filed by the wife of the accused, relating to offences punishable u/s 498 A and 406 I.P.C. and one punishable u/s 3/4 Dowry Prohibition Act, 1961. In this case, the Apex Court discharged the accused from the complaint.

3. On behalf of the respondent No. 2- Renuka Goswami (complainant), attention of this Court is drawn to the case of *State of M.P. Vs. Suresh Kaushal and others* (2003) 11 Supreme Court Cases 126, in which it is held that in view of provision contained in Section 179 of Cr.P.C., both the courts where the offence is committed, and the consequence is ensued, has jurisdiction to try the offence. In the case of *State of M.P. Vs. Suresh Kaushal* (Supra), which also pertains to offence punishable u/s 498-A I.P.C. the facts were slightly different to the cases of *Y. Abraham Ajith's* (Supra) and *Manish Ratan's* (Supra). Unlike the two mentioned in the precesding para in the case of *M.P. Vs. Suresh Kaushal* (Supra), the complainant had alleged the physical torture at Indore, where she lived with her husband and consequently miscarriage took place at Jabalpur, as such, it was held by the Apex Court that in view of provision of Section 179, the court at Jabalpur, has also jurisdiction to take the cognizance of the offences and try the

same. Having gone through the afore mentioned cases, this Court is of the view that the facts of this case and the allegations made against the petitioners in the present case are more like that of Y. Abraham Ajith's case (Supra) and Manish Ratan's case (Supra).

4. Learned counsel for respondent No. 2, drew attention of this Court also the case law reported in Jagdish and Others Vs. State of Rajasthan and Another, and Prabhat Ranjan Pandey and others Vs. State of U.P. and another 1998 (2) A.Cr.R. 1588. In both these cases, it is alleged that the harassment due to non fulfillment of demand of dowry continued even at the place where the complainant (wife) lived with her parents. While in the present case, there is no such allegations that the harassment was made at Khatima (District Udham Singh Nagar). As to that place only this much is mentioned in the First Information Report that the complainant's husband from abroad rang her and told her that he will be sending papers of divorce. That by itself is not harassment for non fulfillment of demand of dowry. For the reasons as discussed above, in view of provision of Section 177, 178 and 179 of Cr.P.C. this Court is of the view that the court at Khatima, has no jurisdiction to try the petitioners in respect of the offences, committed in Mumbai as no part of cause of action has taken place within the territory of Uttarakhand. Therefore, the petition u/s 482 Cr.P.C. is allowed. The proceedings in criminal case No. 934 of 2007, relating to offences punishable under Sections 498-A, 323, 504 and 506 I.P.C. and one punishable u/s 3/4 Dowry Prohibition Act, 1961, State Vs. Harish Goswami, pending in the court of Judicial Magistrate, Khatima, are here by quashed.