
(2010) 06 PAT CK 0044
In the Patna High Court
Case No : Cr. Misc. No. 3406 of 2008

Dr. Sidhnath Dubey @ Sidhnath for Dubey and Others	APPELLANT
Vs	
The State of Bihar and Another	RESPONDENT

Date of Decision : 30-06-2010

Acts Referred:

Citation : (2010) 06 PAT CK 0044

Final Decision : Dismissed

Judgement

Rakesh Kumar, J.—Heard Shri Rana Pratap Singh, learned Senior Counsel appearing on behalf of three Petitioners and Smt. Indu Bala Pandey, learned Additional Public Prosecutor appearing on behalf of the State.

2. Three Petitioners, while invoking inherent jurisdiction of this Court u/s 482 of the Code of Criminal Procedure, have prayed for quashing of order dated 5.9.2007 passed by Sub-Divisional Judicial Magistrate, Gaya in Complaint Case No. 239 of 2006/Trial No. 1587 of 2007. By the said order, the learned Magistrate has taken cognizance of the offence under Sections 498A/498/406 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act. Learned Senior Counsel, while challenging the order of cognizance, has confined his submission on the ground of lack of jurisdiction of the concerned court. It has been submitted that cause of action had not arisen with the territorial jurisdiction of the concerned court i.e. Gaya and in absence of territorial jurisdiction, the learned Sub-Divisional Judicial Magistrate was not competent to entertain the complaint petition. He has argued that entire cause of action arose within the territorial jurisdiction of a court at Patna. The marriage had taken place at Patna and allegation of torturing the daughter of the complainant is in the district of Patna and as such the learned court was not required to entertain the complaint petition or to pass cognizance order. It was further submitted that of course, in the complaint petition, one Nitu Singh was made Accused No. 4, but the learned Magistrate has not proceeded against Accused No. 4 and cognizance order has been passed only in respect of the offences committed by three accused, who

are Petitioners before this Court. Learned Senior Counsel for the Petitioner, while challenging the order of cognizance on the ground of lack of jurisdiction, has relied upon judgment reported in 2008 (3) PLJR (S.C.) 367 (Bhura Ram v. State of Rajasthan) and Y. Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another,

3. In this case, Smt. Indu Bala Pandey, learned Additional Public Prosecutor appearing on behalf of the State has opposed the prayer of the Petitioners.

4. Besides hearing learned Counsel for the parties, I have examined the materials available on record and also the complaint petition, which has been annexed as Annexure-1 to the petition.

5. So far as decisions relied on behalf of the Petitioners by Shri Rana Pratap Singh, learned Senior Counsel is concerned, in the facts and circumstances of the present case, it is not required to examine the said point in detail since in the present case, the court is of the opinion that it is not a case where entire cause of action arose within the district of Patna. The court is of the opinion that part of cause of action arose within the district of Gaya and, accordingly, in view of provisions contained under Chapter-XIII of the Code of Criminal Procedure either court at Patna or Gaya is competent to proceed with the complaint petition.

6. On perusal of the complaint petition, it is evident that the complainant has categorically stated in paragraph-2 of the Accused No. 4, against whom cognizance order has not been passed, had telephonically informed the complainant regarding demand of Rs. 5 lacs for settling the life of the daughter of the complainant. It was asserted in the complaint petition that Accused No. 4 had stated that though she was not Wife of husband of the daughter of the complainant, she is like her wife and after getting such information, the complainant rushed to Patna and saw the husband of his daughter with Accused No. 4. In the complaint petition, allegation was made that the husband of the daughter of complainant was having illicit relation with Accused No. 4 however no order relating to cognizance in respect of Accused No. 4 was passed. The facts indicated in complaint petition categorically discloses that part of cause of action arose within the jurisdiction of Gaya and as such I am of the view that learned Magistrate was competent to pass the impugned order of cognizance and there is no irregularity or illegality in the order.

7. Accordingly, I do not find any merit in the petition and petition stands rejected.