
(2007) 12 OHC CK 0040
In the Orissa High Court

Hemanta Moharana and Others

APPELLANT

Vs

State of Orissa and Another

RESPONDENT

Date of Decision : 21-12-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 177, 178
Dowry Prohibition Act, 1961 — Section 4
Penal Code, 1860 (IPC) — Section 406, 498A

Citation : (2008) 105 CLT 316 : (2008) 2 DMC 180 : (2008) 39 OCR 366 :
(2008) 1 OLR 128 Supp

Hon'ble Judges : Pradip Mohanty, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Pradip Mohanty, J.—By this revision petition, the Petitioners assail the legality and propriety of the Order Dated 30.08.2006 passed by the SDJM, Bargarh in ICC Case No. 57 of 2004 and pray to quash the same on the ground of lack of territorial jurisdiction.

2. Petitioner No. 1 is the husband of Damaayanti, the sister of opposite party No. 2. On a complaint filed by opposite party No. 2, the Learned SDJM took cognizance of the offence under Sections 498A/406 IPC read with Section 4 of the Dowry Prohibition Act against the Petitioners and issued processes against them. Challenging the said order, the Petitioner approached this Court in Criminal Misc. Case No. 760 of 2006, wherein territorial jurisdiction of the SDJM, Bargarh to entertain the complaint was questioned. The said misc. case was disposed of on 13.04.2006 granting liberty to the Petitioners to raise the point of jurisdiction before the Trial Court, which would look into the same and pass necessary orders in accordance with law. Thereafter, the Petitioners filed a petition before the Trial Court with a prayer to drop the proceeding on the ground of jurisdiction. The Trial Court, however, rejected the said petition with the finding that a part of the offence has been committed within its jurisdiction and issued NBWs against the Petitioners.

3. Learned Counsel for Petitioners submitted that the entire allegation made in the complaint petition does not disclose if any part of the offence was committed within the territorial jurisdiction of the SDJM, Bargarh. He further submitted that Section 177 Cr.P.C. clearly lays down that every offence shall ordinarily be enquired into and tried by a Court within whose local jurisdiction it was committed, and it is the duty of the Court to see whether the occurrence had taken place within its jurisdiction. The Trial Court has failed to appreciate this aspect of the matter. He further submitted that the Petitioners are residing within the territorial jurisdiction of the SDJM, Dhenkanal and the cause of action, if any, so far as the offence u/s 498A is concerned, has taken place within the said jurisdiction. Therefore, they prayed for dropping the criminal proceeding before the SDJM, Bargarh.

4. Learned Counsel for opposite party No. 2 vehemently contended that the Trial Court rightly took cognizance as a part of the cause of action arose within its jurisdiction. The marriage took place at Bargarh and demand for dowry was made at Bargarh. After the marriage, as dispute arose, there was an attempt for settlement, which also took place at Bargarh. At the time of settlement, Petitioner No. 1 throttled the neck of amayanti and did not agree to take her back without T.V. and cash of Rs. 60,000/-. Therefore, it is clear that a part of the occurrence took place within the jurisdiction of the SDJM, Bargarh.

5. In support of their respective contentions, both parties relied upon the decisions in *Y. Abraham Ajith v. Inspector of Police, Chennai* 2004 (29) OCR (SC) 241, *Manish Ratan and Others Vs. State of M.P. and Another*, *Hiralal Agarwal v. State of Orissa* 2006 (34) OCR 702 and *Shivanand Mallappa Koti v. State of Karnataka* AIR 2007 SC 4012.

6. Perused the records and the decisions cited by the parties. The crucial question is whether any part of the cause of action arose within the territorial jurisdiction of the SDJM, Bargarh. In terms of Section 177 Cr.P.C, for initiation of a proceeding against an accused in a particular Court, the first and foremost thing for determination is the place where the offence is committed. But, Section 178 Cr.P.C, which speaks about place of inquiry or trial, lays down as follows:

178. Place of inquiry or trial.- (a) When it is uncertain in which of several local areas an offence was committed, or

(b) where an offence is committed partly in one local area and partly in another, or

(c) where an offence is a continuing one, and continues to be committed in more local areas than one, or

(d) where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

7. In the instant case, part of the cause of action has arisen at Bargarh inasmuch as the marriage took place at Bargarh and the Petitioners made demand for

dowry at Bargarh. After the Petitioners ill-treated Damayanti, both physically and mentally, due to non-fulfilment of dowry demand, she came and stayed at Bargarh in her parental house. The meeting for settlement was held in the parental house where Petitioner No. 1 throttled the neck of Damayanti and asked her to come with money, otherwise he would leave her. In other words, he did not agree to take back Damaayanti unless the money was paid.

8. In view of the above discussion, it is clear that a part of the offence alleged in the complaint petition was committed at Bargarh. Therefore, the instant case is squarely covered by clause (b) of Section 178 Cr.P.C. and this Court holds that the Court at Bargarh, has jurisdiction to try the case.

In the result, the CRLREV is devoid of any merit and the same is accordingly dismissed.