

(2015) 05 JH CK 0079

In the Jharkhand High Court

Case No : Cri. M.P. Nos. 548 of 2011 and 1622 of 2010

Nagendra Singh

APPELLANT

Vs

Joginder Singh

RESPONDENT

Date of Decision : 01-05-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 177, 178, 182
Penal Code, 1860 (IPC) — Section 498A

Citation : (2015) 3 AJR 81

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Advocate : Rajesh Kumar, for the Appellant; G.C. Sahu, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Ranjan Prasad, J—Heard learned counsel appearing for the petitioners and learned counsel appearing for the State as well as learned counsel appearing for the Opp. Party No. 2. These applications have been filed for quashing of the order dated 16.03.2009 passed by learned Judicial Magistrate, Ranchi in Complaint Case No. 2246 of 2008 whereby and whereunder, cognizance of the offence punishable under Section 498A of the Indian Penal Code has been taken against the accused persons, who are the petitioners in both the cases.

2. The case of the prosecution, as has been made out in the complaint case, is that the complainant's second daughter Poonam Kumari was married with Nagendra Singh, according to Hindu rites and customs at Varanasi. Expenses of the marriage was borne by the complainant. On the very next day of marriage, the husband started demanding Alto car as well as cash of Rs. 1,00,000/-. From the next day, all the accused persons, who are the petitioners herein, started demanding Rs. 1,00,000/- as well as Alto car. The complainant's daughter was being subjected to abuses and were insisted upon to make telephone calls to her father for demanding Rs. 1,00,000/- and Alto car. On being informed, the

complainant along with his relatives went to the house of the accused persons so many times in order to solve the problem of his daughter, but it never proved to be fruitful. On account of Poonam Kumari being inflicted with mental and physical torture, the complainant was compelled to bring his daughter back to Ranchi from Varanasi on 10th August, 2008. Further it has been alleged that the accused persons by making telephone call, to the complainant, made it clear that they will never come Ranchi for taking Bidai of the complainant's daughter unless the demand of dowry i.e. Alto Car & Rs. 1,00,000/- is fulfilled.

3. On such complaint, when the cognizance of the offence was taken vide order dated 16.03.2009, it was challenged before this Court by way of these criminal miscellaneous petitions.

4. Mr. Rajesh Kumar, learned counsel appearing for the petitioners submits that no cause of action ever accrued at Ranchi where the case has been lodged and still, the court has taken cognizance of the offence, which is quite illegal, in view of the decision rendered in a case of Bhura Ram and Others Vs. State of Rajasthan and Another, AIR 2008 SC 2666 : (2008) CLT 934 : (2008) CriLJ 3494 : (2008) 4 JT 611 : (2008) 150 PLR 531 : (2008) 4 SCALE 666 : (2008) 11 SCC 103 : (2008) AIRSCW 4449 and also in a case of Y. Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another, AIR 2004 SC 4286 : (2004) CriLJ 4180 : (2004) 2 DMC 371 : (2004) 6 JT 497 : (2004) 7 SCALE 374 : (2004) 7 SCALE 26 : (2004) 8 SCC 100 : (2004) 3 SCR 604 Supp : (2004) 2 UJ 1435 : (2004) AIRSCW 4788 : (2004) 6 Supreme 207 .

5. As against this, Mr. G.C. Sahu, learned counsel appearing for the Opp. Party No. 2 submits it is not correct on the part of the petitioners to submit that the cause of action has never accrued at Ranchi as in the very last paragraph of the complaint petition, it has been alleged that the accused persons by making call to the complainant, had put forth the demand of the dowry and thereby, the court does have jurisdiction in terms of the provision as contained in Section 182, Cr.P.C. and, hence, the court was absolutely justified in taking cognizance of the offence.

6. Upon it, Mr. Rajesh Kumar, learned counsel appearing for the petitioners submits that in similar situation where the demand has been made on telephone, this Court did hold that the cause of action never accrues, if the demand is made on telephone.

7. Further by referring to the provision as contained in Section 182, Cr.P.C., it was submitted that though the word "any offence" has been used in Section 182, Cr.P.C. but it mainly relates to the offence of cheating and, thereby, that provision cannot be taken aid of by the complainant.

8. Further, learned counsel appearing for the petitioners in support of his submission, has referred to a decision rendered in a case of Ajay Kr. Jain alias Ajay Kr. Kala alias Ajay Kumar Jain (Kala) & Ors. v. State of Jharkhand & Anr. reported in 2007 (2) JLJR 282.

9. Before proceeding with the matter, I may refer to the provision as contained in Section 177, Cr.P.C., which reads as follows:-

177. Ordinary place of inquiry and trial.--Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

10. Thus on plain reading of the said provision, it appears that wherever cause of action does arise, the court of that place will have a jurisdiction.

11. Further, I may refer to also Section 178, Cr.P.C., dealing with the place of enquiry or trial, which reads 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.

12. On perusal of it, it is evident that the court also will have jurisdiction where part of cause of action has accrued.

13. Keeping in view all these provisions, if allegation made in the complaint petition is looked into, it appears that all the overt acts constituting offence under Section 498A of the Indian Penal Code are said to have been committed at Varanasi. However, it is also the case that the accused persons made a telephonic call to the complainant whereby demand of the dowry was made and that gives jurisdiction to the court at Ranchi by virtue of the provision as contained in Section 182, Cr.P.C. which reads as follows:--

182. Offences committed by letters, etc.--(1) Any offence which includes cheating may, if the deception is practised by means of letters or telecommunication messages, be inquired into or tried by any Court within whose local jurisdiction such letters or messages were sent or were received; and any offence of cheating and dishonestly inducing delivery of property may be inquired into or tried by a Court within whose local jurisdiction the property was delivered by the person deceived or was received by the accused person.

14. From bare perusal of the said Section, it does appear that any offence including offence of cheating can be tried at the place where the letters and messages constituting ingredients of offence have been received.

15. However, submission which has been advanced on behalf of the petitioners is

that the provision as contained in Section 182, Cr.P.C. mainly deals with the offence of cheating is not acceptable for the reason that Section 182, Cr.P.C. stands with opening words "any offence" which include cheating and, therefore, that cannot be confined only to the offence of cheating.

16. In a case referred to on behalf of the petitioners, the fact of the case is that when cognizance of the offence had been taken under Section 498A of the Indian Penal Code on the allegation made in the complaint that the complainant was subjected to torture on account of non-fulfillment of the demand of the dowry and also there had been a telephonic conversation with respect to demand, it was challenged on the ground that the court, which took cognizance, lacks territorial jurisdiction. However, argument was advanced on behalf of the complainant that the court, who has taken cognizance, does have jurisdiction as the demand was made through telephonic conversation, but the court did find that no cause of action accrued on account of telephonic conversation as actual contents of the telephonic conversation had not been disclosed nor was any specific date mentioned as to when was any such call made to the complainant.

17. In the instant case, though the date of telephonic call is also not there, but there is specific allegation of demand being made through telephonic message which at this stage cannot be ignored. Thus the facts of the case is quite distinguishable.

18. Since part of the cause of action, as has been stated above, seems to have accrued at Ranchi, the court, at Ranchi, certainly does have territorial jurisdiction and, thereby the court never seems to have committed any illegality in taking cognizance of the offence and hence, order taking cognizance never warrants to be interfered with. Accordingly, both the applications stand dismissed.