

(2013) 11 PAT CK 0036

In the Patna High Court

Case No : Criminal Miscellaneous No. 25071 of 2013

Nitin Sagar and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 19-11-2013

Acts Referred:

Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 498A

Citation : (2014) 1 PLJR 231

Hon'ble Judges : Birendra Prasad Verma, J

Bench : Single Bench

Advocate : Sunil Kumar, for the Appellant; Arif for the State of Bihar, for the Respondent

Judgement

Birendra Prasad Verma, J.—The petitioners are aggrieved by the order dated 8.10.2012 passed in Complaint Case No. 1545(C) of 2012 by the learned Sub-Divisional Judicial Magistrate, Bettiah, West Champaran, whereby cognizance has been taken for the offences u/s 498A of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act and processes have been ordered to be issued against the accused petitioners for facing trial. Learned counsel appearing on behalf of the petitioners has raised a very short question regarding lack of territorial jurisdiction of the learned Magistrate. According to him, as per complaint petition vide Annexure-1 itself, the occurrence in question has taken place either at Darbhanga or at Mumbai and no cause of action has arisen within the territorial jurisdiction of the learned Sub-Divisional Judicial Magistrate, Bettiah, West Champaran. Therefore, according to him, the order taking cognizance is not sustainable in law.

2. It is well settled that question of jurisdiction has to be raised at the first instance before the learned trial court itself and is required to be tested after looking into the materials available on record. Reference can be made to a judgment of the Hon'ble Apex Court in the case of Krishna Kumar Variar Vs.

Share Shoppe, The Hon''ble Apex Court in the identical matters in the case of Trisuns Chemical Industry Vs. Rajesh Agarwal and others, has laid down the law that the Magistrate taking cognizance of offence need not have territorial jurisdiction to try the case as well. Any Judicial Magistrate of First Class has power to take cognizance of any offence, whether committed within his jurisdiction or not. Quashing of order taking cognizance by a High Court on that ground has been held to be improper and premature. However, it has further held that if cause of action has not arisen within the territorial jurisdiction of a particular Magistrate, then he cannot proceed with the trial.

3. In the aforesaid facts and circumstances and in view of the law laid down by the Hon''ble Apex Court, as referred to above, this Court is not inclined to interfere with the impugned order at this stage. In the result, the application is dismissed. However, the petitioners will be well advised to raise the question of jurisdiction before the learned trial court. If such a petition is filed on behalf of the petitioners, then the same shall be considered and decided strictly in accordance with law in the light of the judicial pronouncements made by the Hon''ble Apex Court.