
(2008) 10 OHC CK 0020

In the Orissa High Court

Case No : Criminal M.C. No. 443 of 2008

R. Satyamoorthy and Others

APPELLANT

Vs

State of Orissa and Another

RESPONDENT

Date of Decision : 13-10-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 117, 177, 178, 179, 180

Dowry Prohibition Act, 1961 — Section 4

Penal Code, 1860 (IPC) — Section 323, 34, 406, 498A, 498AA

Citation : (2010) CLT 332 (Suppl CrI)

Hon'ble Judges : M.M. Das, J

Bench : Single Bench

Final Decision : Allowed

Judgement

M.M. Das, J.—Heard learned Counsel for the Petitioners and learned Counsel for the State.

2. This is an application u/s 482, Code of Criminal Procedure seeking quashing of Berhampur Mahila P.S. Case No. 26 of 2007 which corresponds G.R. Case No. 533 of 2007 pending before the learned S.D.J.M., Berhampur.

3. Two questions raised by the Petitioners are that if the entire case of the prosecution is accepted as a whole, if does not make out a case u/s 498AA/323/34, I.P.C. read with Section 4 of the D.P. Act for the offences on which the F.I.R. has been registered and that even accepting the allegations made in the F.I.R. it would show that the alleged offences were committed at Mohali in Punjab, and, therefore, the F.I.R. could not have been registered by the Mahila Police Station at Berhampur. The parties are related as husband and wife. The F.I.R. was lodged by the wife-opposite party on 01.07.2007, inter alia, alleging as follows:

To The Superintendent of Police, Berhampur, Ganjam,

Respected Sir,

I Srimati Mrudula Satyamoorthy and W/O. R. Satyamoorthy and D/o D.P. Raju, presently staying at Dharmanagar 3rd lane at Berhampur begs to report that while myself holding job in Dell International services, my marriage with Sri R. Satyamoorthy S/o Sri M. Ramalingam and his wife Smt. R. Selvarani, presently residents of house number A 12, Potal Officers Quarters, 80 Feet Road, Indranagar. N.T. Sandra Post, Bangalore-35 Phone Number 080-25287020, Cell number 09449281711 was solemnized observing the Hindu rites at Ti.rumala (Tirupati Hills) on 18th May 2005 in Andhra Pradesh in presence of our and his friends, relatives, parents and other family members, after they and my husband's sisters elder one named Uma Maheswari and younger one Shanmuga Sundari taken dowry in shape of gold ornaments of 13 1/2 tolas, silver articles worth Rs. 85,000/- and cash of Rs. 1,00,000 from my parents as they demanded the same at Berhampur just before three days of our marriage and spending about Rs. 2,00,000 for marriage arrangements under their coercion and pressure, as a consideration for our marriage which followed by Marriage Certificate dated 19.05.2005 of the Marriage Registrar at Tirupati and from there, all of us returned to Berhampur (Gm) where our marriage was consummated at my parents place and reception of our marriage was accorded at Berhampur (Gm) followed by giving them further dowry on 21st May 2005 while my husbands parents and sisters and their near accommodated in the rooms in Hotel Moti at Berhampur from 20.5.2005 till the night of 22.05.2005 where from, we went to my in-laws home at Delhi and then to my husband work place at Mohali (Punjab). Since the day of our marriage, I have been facing lot of marriage problems suffering physical and mental torture, abuses, assaults, humiliation, occasional starvation in the hands of my husband, my in-laws and their daughter for no fault of me, they demanding post marriage dowry in cash and gold even used to force me to leave their house everyday for inability of my parents to meet such further demands of them and got me transferred in my job at Bangalore where my in-laws allowed me to stay in their home even they falsely assessing my chastity as a ruse of them. Due to the assaults and cruel acts on me, one of the injury I sustained on my kidney related urinary tube giving me acute pain. Sine they not subjected me for treatment, my health condition deteriorated and so my parents got me tests, diagnosis and surgical operation and treatment in a reputed hospital from 18.12.2006 to 2.01.2007 at Rajahmundry (AP). After treatment at Balgalore and Rajahmundry now I am recovering fast comalescating at my parents home at Berhampur from 13.02.2007 till this day.

During such period of my hospitalization and treatment, neither my husband, nor his parents or any of his family members visited me nor enquired about my health condition even over the phone through I kept them informed about my day to day condition. Rather they all abused me using filthy language insisting me to divorce my husband as and when I telephoned them requesting them to take me back to my conjugal life. So far may parents and I incurred lots of debts for my treatment and special food. I wrote letters dated 17.02.2007 by speed post to

my husband and my in-laws but not so far I got any response from them who are responsible for my suffering. After my letters they got, whenever I telephoned to them, they insist me to divorce as they retained all the dowry cash and kind they taken.

In the facts and circumstances, I pray your kindness for taking steps for initiating of appropriate legal action against all of them.

Thanking You.

Yours Faithfully, Sd/- Mrudula Satyamoorthy

4. A bare reading of the F.I.R. shows that the opposite party-wife alleged that her marriage took place with the Petitioner on 19.05.05 at Tirupati and from there, they returned to Berhampur, Ganjam where the marriage was consummated at the parents place of the wife. Vague allegations have been made that further dowry was given on 21.05.05 when her husband, husband's parents and sisters and their near relatives were accommodated in the rooms in Hotel Moti from 20.05.05 till the night of 22.05.05. From there, she alleges that she went to her in-laws home at Delhi and then to her husband's work place at Mohali (Punjab). Various other allegations with regard to non-concern of the in-laws during illness of the informant has been alleged. There is absolutely no allegation of demand of dowry and no specific allegation with regard to torture.

5. Be that as it may, the question of law, which has been raised in this petition is that as to whether such an F.I.R. could have been registered at Berhampur Mahila Police Station even though no offence is alleged to have been committed within the jurisdiction of the said police station. Reliance has been placed by the learned Counsel for the Petitioner on the decisions in the cases of Y. Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another, , Hiralal Agarwal and Ors. v. State of Orissa and Anr. (2006) 34 OCR 702 and Pranabandhu Panda and Ors. v. State of Orissa . In Y. Abraham Ajith and Ors. (supra), the Supreme Court was considering the question as to whether in the facts of the said case the same could have been tried by the XVIII Metropolitan Magistrate, Saidapet, Chennai. The said case was one under Sections 498A/406, I.P.C. read with Section 4 of the D.P. Act where the Magistrate directed the police to investigate the case and after investigation, a charge-sheet was filed by the police. Referring to Section 177 of the Code of Criminal Procedure which prescribes that every offence shall ordinarily be enquired into and tried by a Court within whose local jurisdiction it was committed and also Section 178 which provides that when it is uncertain in which of several local areas an offence was committed or where an offence is committed partly in one local area and partly in Anr. or when an offence is a continuing one, and continues to be committed in more local areas than one or 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, the Supreme Court held that Sections 177 to 186 of the Code which deal with venue and place of trial. Section 117 reiterates the well established common

law rule referred to in Halsbury's Laws of England (Vol. IX Part-83) that the proper and ordinary venue for the trial Of a crime is the area of jurisdiction in which, on the evidence, the facts occurred and which alleged to constitute the crime. The Supreme Court further referring to several earlier judgments of the Apex Court and the facts of the said case where the complainant herself left the house of the husband on 15.04.97 on account of alleged dowry demands by the husband and his relations and that there was no whisper of any allegations thereafter about any demand of dowry, logic of continuance of offences cannot be applied. Drawing a corollary of civil cases and interpreting the expression "cause of action" the Supreme Court concluded that on applying the legal principle to the factual scenario disclosed by the complainant in the complaint petition, inevitable conclusion is that no part of the cause of action arose in Chhenai and, therefore, the Magistrate had no jurisdiction to deal with the matter. In the cases of Pranabandhu Panda and Ors. (supra) and Hiralal Agarwal and Ors. (supra), this Court had the occasion to deal with similar question where in the facts of the said cases ultimately concluded that no part of the cause of action arose in the respective Courts in which the criminal cases were pending and accordingly quashed the said proceedings.

6. Applying the ratio of the above decisions to the facts of the present case, it is amply clear that even accepting the allegations as made out in the F.I.R., the same neither makes out a case of commission of the aforesaid offences on which the F.I.R. has been registered nor the offences are continuing offences and continues to be committed as envisaged in Clause-G of Section 178 of the Code of Criminal Procedure. None of the offences have also been alleged to have been committed within the jurisdiction of the Berhampur Manila Police Station and, thus, this Court has no hesitation to conclude that the F.I.R. lodged could not have been registered as it does not disclose any cognizable offence and even accepting that the same discloses commission of cognizable offences, such offences have not been alleged to have been committed within the jurisdiction of the Berhampur Mahila Police Station. The F.I.R., therefore, is quashed and as a consequence, the proceeding in G.R. Case No. 533 of 2007 pending before the learned S.D.J.M., Berhampur also stands quashed.

7. The CrI. M.C. is accordingly allowed.

8. Urgent certified copy of this order be granted on proper application.