
(2007) 07 JH CK 0017
In the Jharkhand High Court

Radhe Raman Naik and Another

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 04-07-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 177, 178, 202
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 498A

Citation : (2008) CrLJ 317

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Amareshwar Sahay, J.—It is stated by the learned Counsel for the petitioners that during the pendency of this application, petitioner No. 1 has died and as such, the name of petitioner No. 1 be deleted from the cause title of this case. Accordingly, the name of petitioner No. 1 is deleted.

2. Heard the learned Counsel for the parties.

3. Despite the personal service of notice, opposite party No. 2 Usha Devi has not chosen to appear to contest the case.

4. The prayer in this application is to quash the order dated 19-2-2003 passed by the Sub-Divisional Judicial Magistrate, Bokaro, in C.P. Case No. 341 of 2002, whereby the cognizance of the offence u/s 498A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act was taken " against the accused persons including the petitioner.

5. The main grievance of the petitioner for challenging the order dated 19-2-2003 taking cognizance and for quashing the entire criminal prosecution/proceedings is that even according to the allegation made in the complaint petition, no part of the occurrence alleged has taken place within the territorial jurisdiction of Bokaro Court and, therefore, the Court at Bokaro had no

jurisdiction to take cognizance of the offence and proceed with the trial since the alleged occurrence took place outside of its territorial jurisdiction.

6. It is submitted that even according to the complaint petition the occurrence has taken place in the State of Uttar Pradesh, and, therefore, in view of the decision rendered by the Supreme Court in the case of Y. Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another, , the criminal prosecution/proceedings cannot continue in the Court at Bokaro.

7. In order to test the submissions of the learned Counsel for the petitioner, I have gone through the complaint petition; a copy of which has been annexed as Annexure-1 to this application, and found that the complainant herself has stated that the place of occurrence was at her matrimonial house situated at village Bakhira, P.O. and P.S. Bakhira, Paragana Maghar (East) Tahsil Khalilabad, district St. Kabir Nagar, U.P.

8. From the perusal of the entire complaint petition as well as the statement of the complainant recorded on solemn affirmation and the statements of the witnesses recorded during the course of enquiry u/s 202 of the Code of Criminal Procedure, it is evident that the overt act as alleged against the petitioner is said to have been taken place in the State of Uttar Pradesh at village Bakhira and not at Bokaro in the State of Jharkhand.

9. The Supreme Court in the case of Y. Abraham Ajith and Ors. AIR 2004 SC 42(supra) considered the similar facts as of the instant case and after considering the provisions of Sections 177 and 178 of the Code of Criminal Procedure, 1973, held that "the criminal proceeding pending before the Magistrate at "C" had no jurisdiction to deal with the matter the occurrence of which took place at place "N"". Therefore, the present case is fully covered by the above decision of the Supreme Court.

10. In this view of the matter this application is allowed and the order-taking cognizance dated 19-2-2003 passed by the Sub-Divisional Judicial Magistrate, Bokaro, in C.P. Case No. 341 of 2002 as well as the entire criminal prosecution/proceedings of the petitioner for the offence under Sections 498A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act pending in the Court of the Sub-Divisional Judicial Magistrate, Bokaro, is hereby quashed.