

(2008) 08 CHH CK 0003

In the Chhattisgarh High Court

Case No : Criminal Misc. Petition No. 345 of 2008

Raghubir Singh and Others

APPELLANT

Vs

State of C.G. and Another

RESPONDENT

Date of Decision : 22-08-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161, 177, 178, 482
Penal Code, 1860 (IPC) — Section 34, 498A

Citation : (2009) 2 CGLJ 1

Hon'ble Judges : T.P. Sharma, J

Bench : Division Bench

Advocate : Uttam Pandey, for the Appellant; Pankaj Shrivastava, Panel Lawyer for State/non-applicant No. 1, for the Respondent

Final Decision : Dismissed

Judgement

T.P. Sharma, J.—This petition is filed for quashment of proceedings in Criminal Case No. 1709/2006 pending before the Judicial Magistrate, First Class, Raipur for offence punishable u/s 498A read with Section 34 of the I.P.C. on the ground that the trial Court has exceeded the territorial jurisdiction of trial of the case.

2. I have heard learned Counsel for the parties, perused the copies of the order sheets and copy of the charge sheet filed by the applicants.

3. It is argued on behalf of the applicants that according to the first information report and the statements of the witnesses recorded u/s 161 of the Code of Criminal Procedure it is evident that the cause of action arose at District Durg not within the territorial jurisdiction of the Court situated at Raipur. Continuation of proceedings before the Court having no jurisdiction will amount to abuse of the process of the Court.

4. On the other hand, learned Counsel appearing on behalf of the State/non-applicant No. 1 opposed the application and submitted that the applicants had already filed application relating to tenability of the case before the trial Court

under Sections 177 and 178 of the Code of Criminal Procedure same is pending consideration before the trial Court, therefore, the present petition is not tenable.

5. This is a petition filed u/s 482 of the Code of Criminal Procedure. Interference in exercise of inherent jurisdiction u/s 482 of the Code of Criminal Procedure can be made in rarest of rare cases with a view to give effect to the order under the Code to prevent abuse of process of the Court and to otherwise secure the ends of justice.

6. This petition has been filed for quashing of the proceedings pending before the Judicial Magistrate, First Class, Raipur in Criminal Case No. 1709/2006 which is neither just nor proper. Trial is at the stage of conclusion and this is not a case for invoking the extra ordinary jurisdiction.

7. Copies of the order sheets of the trial Court reveal that the applicants have already filed objection/application relating to jurisdiction of the trial Court under Sections 177 and 178 of the Code of Criminal Procedure, same is pending consideration. The applicants having alternative remedy to agitate the matter before the trial Court, have invoked the original jurisdiction and the applicants have already applied for appropriate remedy before the trial Court. In the circumstances, invoking extra ordinary jurisdiction of this Court is not proper in this case.

8. Consequently, the petition is dismissed in limine. However, the applicants shall be at liberty to avail appropriate remedy before the trial Court at proper stage. I.A. No. 1/2008, application for stay, stands disposed of.