

**(2005) 09 PAT CK 0010**

**In the Patna High Court**

**Case No :** Criminal Miscellaneous No. 14791 of 2005

Raja Ram Choudhary @ Raja Ram and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

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**Date of Decision :** 16-09-2005

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 177, 179  
Dowry Prohibition Act, 1961 — Section 3, 4  
Penal Code, 1860 (IPC) — Section 323, 34, 354, 406, 498A

**Citation :** (2005) 4 PLJR 741

**Hon'ble Judges :** Mridula Mishra, J

**Bench :** Single Bench

**Advocate :** Krishna Pd. Singh and Ambika Bhagat, for the Appellant; Ramakant Sharma and Syed Hussain Mateed, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Mridula Mishra, J.—Petitioners are accused in Complaint Case No. 226 of 2005 for offence under Sections 498A, 323, 354, 406, 504 and 506 / 34 of the Indian Penal Code and u/s 3 / 4 of the Dowry Prohibition Act. The complainant is opposite party No. 2 namely Kalawati Devi alias Rinki, who has filed the complaint case before the C.J.M. Kaimur at Bhabhua and the same was registered as Complaint Case No. 226 of 2005. This application has been filed by the petitioners for transfer of Complaint Case No. 226 of 2005 from the Court of Sub-divisional Judicial Magistrate, Kaimur at Bhabhua to any other court at Patna sessions division. The transfer has been sought for by the petitioners on the ground that the Bhabhua court has no jurisdiction either to take cognizance or to try the case, which is evident from the facts revealed in the complaint case. As per the complaint case all incidents have taken place at Patna. The marriage was solemnised at Patna. Father of the complainant resides at Patna and the native village of the plaintiff's father is Nawada and in no case the court at Bhabhua in the district of Kaimur has got jurisdiction to try the case. The complainant has filed this case at Bhabhua just to manipulate, as one of her uncle is a Bench clerk

of Sub-divisional Judicial Magistrate, Kaimur at Bhabhua.

2. Petitioners' counsel has stated that the petitioner has sought for transfer on the ground of lack of territorial jurisdiction of the court at Bhabhua stating that u/s 177 Cr.P.C. any court within the sessions division at Patna may have jurisdiction to try the case and accordingly the case should be transferred to Patna.

3. Counsel appearing for the complainant opposite party No. 2 has on the other hand submitted that paragraph-4 of the complaint petition will indicate that the complainant after being tortured came to Bhabhua alongwith her children and she was treated at Bhabhua. She is residing at Bhabhua and going through the mental tension and torture there only. She is continuing to suffer mental agony or torture as a result of the act done by her husband and her relatives at Bhabhua subsequent to leaving her matrimonial home. Considering this fact the Bhabhua court has jurisdiction to try the case as provided u/s 179 Cr.P.C.

4. Section 179 of the Cr.P.C. reads as follows:-

179. Offence triable where act is done or consequence ensues:- "When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued."

5. Section 179 Cr.P.C. is in the nature of exception to general rule that every offence shall be inquired into and tried by the court within whose jurisdiction it was committed. This section provides that an act is an offence by reason of section which has ensued, the offence may be enquired into and tried by the court within whose local jurisdiction the act was committed or where the act has ensued where the wife has been forced to leave her husband or the in-laws house due to torture. Leaving of the house is direct result or consequence of conduct and are integral part of the act done. The complainant was tortured by the accused persons at Patna. She was assaulted and threatened by the accused persons due to which she was compelled to leave her matrimonial house. She was forced to meet unlawful demand of accused persons or to leave her matrimonial house. Lastly the accused persons forced the complainant to leave her matrimonial house. She was driven out of her matrimonial house with her children. All her belongings were taken away by the accused persons. Her father brought her to Bhabhua where she was treated for her mental and physical ailment.

6. Counsel for the opposite party submits that the opposite party No. 2 is residing at Bhabhua and that gives jurisdiction to the Bhabhua court to try such nature of offence as provided u/s 179 Cr. P.C. Counsel for the opposite parties has placed reliance on decisions in the case of Girdhari Lal Jatana and Ors. vs. The State of Bihar and Anr., [1997 (1) P.L.J.R. 513] and in the case of Dr. Animesh Gupta and Others Vs. State of Bihar and Another, it has been held as follows:- "In the instant case, the complainant has alleged that by reason of the

conduct of the accused persons she was forced to leave her matrimonial home. If the act of cruelty had not been committed and there was no danger to her life and health, there perhaps would have been no occasion for her to leave the house. She has also alleged that as a consequence of the acts of the accused persons she is suffering mental agony at Dhanbad. In other words, the wrong or the offence is still continuing. In my opinion, the term "cruelty" in Section 498A has to be given an extended meaning. If the woman continues to suffer the mental agony or torture as a result of the acts done to her by the husband or his relatives forcing her to leave the matrimonial home, it must be said that the cruelty is continuing. While construing the question of jurisdiction with respect to offence u/s 498A one should not forget the social background and the object for which the said offence has been created. This new penal provision is intended to provide benefit and relief to the females who constitute the weaker section of the society, the destitute who have been turned out of the husband's home. If they are to be compelled to file the complaint only at the place where the act was committed, that is, at the place where the husband/in-laws reside, she may not be able to prosecute the complaint properly which will not serve the desired object."

I find myself in complete agreement to the decision aforementioned and I hold that the Bhabhua court has jurisdiction to try the complaint case. Transfer application filed by the petitioners on the ground of territorial jurisdiction has no merit. This application is accordingly dismissed.