
(2010) 04 PAT CK 0065

In the Patna High Court

Shiv Shankar Prasad, Chandeshwar Prasad @ Mohreer and
Kaushalya Devi

APPELLANT

Vs

The State of Bihar and Priyanka Kumari

RESPONDENT

Date of Decision : 02-04-2010

Acts Referred:

Citation : (2010) 04 PAT CK 0065

Final Decision : Allowed

Judgement

Sheema Ali Khan, J.—Heard learned Counsel for the petitioners, the Opposite Party No. 2 and the A.P.P. appearing on behalf of the State.

2. This application has been filed challenging the order 07.11.2007 passed in Complaint Case No. 253 of 2007 by which the Sub Divisional Judicial Magistrate, Raxaul at Motihari, East Champaran has taken cognizance for the offences under Sections 498A, 406, 379 & 376 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

3. This Court is not entering into the merits of the allegation. The only question that has to be decided is the territorial jurisdiction where the complaint lies. According to the complaint petition, the occurrence took place in the matrimonial home of Opposite Party No. 2 which is at Sitamarhi. The occurrence with respect to which it is said that the Opposite Party No. 2 was allegedly ravished by her brother-in-law Gopal Prasad took place at Bettiah. No part of the occurrence has taken place at Motihari inasmuch as the matter of demand of dowry and Section 376 of the Indian Penal Code is concerned. The allegation u/s 379 of the Indian Penal Code has taken place at Raxaul, Motihari.

4. In view of the judgment of the Supreme Court in the cases of Bhura Ram and Ors. v. State of Rajasthan and Anr. reported in 2008 30 PLJT 367 (SC) and Y. Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another, and the judgment of this Court in the case of Baijnath Singh v. State of Bihar and Ors. reported in 2009 (3) PLJT 1012, this Court finds that the Court at Motihari did

not have the territorial jurisdiction to entertain the complaint petition.

5. Accordingly, the order dated 07.11.2007 passed in Complaint Case No. 253 of 2007 by the Sub Divisional Judicial Magistrate, Raxaul at Motihari is hereby quashed. The Sub Divisional Judicial Magistrate, Raxaul at Motihari, East Champaran is directed to transfer this case on an application filed by Opposite Party No. 2 Priyanka Kumari to the Court at Sitamarhi. It is further directed that the Court who is in seisin of this case need not make enquiry u/s 202 of the Code of Criminal Procedure which has already been done so and is on record. The case should only be taken up from the stage of taking cognizance.

6. In the result, this application is allowed with the aforesaid observations and directions.