
(2012) 09 JH CK 0246

In the Jharkhand High Court

Case No : Criminal M.P. No. 731 of 2011

Shyam Choudhary and Others

APPELLANT

Vs

The State of Jharkhand and Another

RESPONDENT

Date of Decision : 25-09-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 498A

Citation : (2013) 1 JLJR 536

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Advocate : Sanjay Kumar, for the Appellant;

Judgement

Rakesh Ranjan Prasad, J.—Notice issued under the Registered Post has been received by the father of the opposite party No. 2, with whom according to the petitioners, the opposite party No. 2 has been residing. In such a situation, notice is accepted to have been validly served. Heard learned counsel appearing for the petitioners and learned counsel appearing for the State.

2. This case has been filed for quashing of the entire criminal proceeding of Complaint Case bearing P.C.R. No. 517 of 2009 (T.R. No. 531 of 2011, including the order dated 16.12.2009, whereby and whereunder, cognizance of the offence punishable u/s 498A of the Indian Penal Code has been taken against the petitioners.

3. It is the case of the prosecution that the complainant's marriage was solemnized at Godda. After solemnization of the marriage, she started living at her in-law's house at Village-Itwa, P.S.-Shambhuganj, Distt.-Banka, Bihar. There, the accused persons immediately started putting-forth demand of the dowry. In order to get the demand fulfilled, she was being subjected to torture. Since she was being subjected to torture, a Panchayati was convened at Godda when the husband of the complainant had come to Godda, where in front of the Panches, he tendered his apology. When the complainant again came to in-law's place,

accused persons again started subjecting her to torture on account of non-fulfillment of the demand of dowry and on the other day, she was even driven out of the house.

4. On such allegation, a complaint case bearing P.C.R. No. 517 of 2009, was registered. After holding enquiry, the court took cognizance of the offence vide its order dated 16.12.2009, which is under challenge in this application.

5. Learned counsel appearing for the petitioners submits that whatever overt acts constituting offence have been allegedly committed at Village-Itwa, P.S.-Shambhuganj, Distt-Banka, Bihar, whereas case has been lodged at Godda and, therefore, the court at Godda had no jurisdiction to take cognizance of the offence as no cause of action, according to the allegation made in the complaint had ever accrued at Godda, and as such, on this ground alone, the order taking cognizance is fit to be set aside, in view of the decision rendered in a case of Bhura Ram and Others Vs. State of Rajasthan and Another, and also in a case of Y. Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another, .

6. On going through the record, I do find substance in the submission advanced on behalf of the petitioners.

7. From perusal of the complaint, it does appear that whatever overt act have been alleged to have been committed by the petitioners, all those have been committed at Village-Itwa, P.S.-Shambhuganj, Distt.-Banka, Bihar, whereas the case has been lodged in the court at Godda though no cause of action had ever accrued to the complainant at Godda, and hence, the court at Godda had no jurisdiction to take cognizance of the offence.

8. In that view of the matter, the order dated 16.12.2009, passed in Complaint Case bearing P.C.R. No. 517 of 2009 (T.R. No. 531 of 2011), is hereby, quashed, in view of the decisions, rendered in cases referred to above, wherein the Hon"ble Supreme Court has been pleased to hold that cause of action having arisen within the jurisdiction of the court, where the offence was committed, could not be tried by the court where no part of offence was committed.

9. However, the complainant-opposite party would be at liberty to invoke the provision as contained in Section 201 of the Code of Criminal Procedure Code by approaching the court to get the complaint returned for presentation to the proper court with an endorsement to that effect. If resort is made to that provision, necessary order be passed. With the aforesaid observations, this application stands disposed of.