
(2013) 02 JH CK 0058
In the Jharkhand High Court
Case No : Criminal Rev. No. 1041 of 2012

Vishwajit Mishra and Others	Vs	APPELLANT
The State of Jharkhand		RESPONDENT

Date of Decision : 22-02-2013

Acts Referred:

Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 498A

Citation : (2013) 2 JLJR 42

Hon'ble Judges : Harish Chandra Mishra, J

Bench : Single Bench

Advocate : Mahesh Tewari, for the Appellant; Sardhu Mahto, for the Respondent

Final Decision : Dismissed

Judgement

Harish Chandra Mishra, J.—Heard learned counsel for the petitioners and learned counsel for the State. The petitioners are aggrieved by the order dated 11.10.2012 passed by the learned S.D.J.M., Bermu at Tenughat, in Petarwar P.S. Case No. 73 of 2010 corresponding to G.R. No. 756 of 2010 whereby, the application filed by the petitioners for discharge, has been rejected by the Court below.

2. It may be stated that the petitioner had earlier filed Cr. Revision No. 56 of 2012 for the similar relief, in which, this Court had found that the order dated 16.12.2011 passed by the Court below rejecting the application of the petitioners for discharge, was a non-speaking order and, accordingly, the said order was set aside by this Court by order dated 14.9.2012 and the Court below was directed to pass the order afresh discussing the materials available in the case diary against the petitioners. Pursuant thereto, the present impugned order has been passed by the Court below again dismissing the application of the petitioners by a speaking order.

3. The petitioners have been made accused in Petarbar/Tenughat P.S. Case 73 of

2010 corresponding to G.R. Case No. 756 of 2010 for the offence u/s 498A of the Indian Penal Code and 3 /4 of the Dowry Prohibition Act. Petitioners are the husband, father-in-law and mother-in-law of the victim lady and there is allegation against the petitioners to have subjected the victim to cruelty and torture for demand of dowry. It is alleged by the victim that she was even being assaulted by the accused persons at her in-laws" place at Dhanbad where she had gone on 2.12.2009 after her marriage. The torture and cruelty upon the victim continued and ultimately on 27.2.2010 the husband of the victim brought her to Bokaro at her sister"s place and thereafter, she went to her father"s place at Tenughat on 28.2.2010. The steps of compromise were taken between the parties and she was brought to her in-laws place in the district of Dhanbad and again she was subjected to cruelty and torture and assaulted by the accused persons. It is also alleged that even the help of the Women Helpline at Dhanbad was taken and the petitioner-husband assured to keep his wife properly, but even thereafter there was no change in the behavior of the accused persons and it is also stated that her husband had also assaulted the informant at her parents" place at Tenughat also. There were again talks of compromise on 6.5.2010, thereafter, the husband of the victim brought her to in-laws" place at Dhanbad, but again the cruelty and torture upon the informant continued by the accused persons and ultimately, the F.I.R. was lodged by the informant before the police at Tenughat, on the basis of which the police case was instituted against the petitioners.

4. Learned counsel for the petitioners has taken short point in this revision application and has submitted that so far as petitioner Nos. 2 and 3, who were the father-in-law and mother-in-law of the victim lady, are concerned, there is no allegation against them of any cruelty or torture within the jurisdiction of Tenughat Court and whatever allegation is there against them, it is at Dhanbad. Learned counsel has also submitted that only false allegation has been made against the petitioner No. 1 that he had also assaulted the informant at Tenughat, only for creating the jurisdiction of the Tenughat Court and, accordingly, the criminal proceeding is not at all maintainable in the Court of Tenughat. In support of his contention, the learned counsel for the petitioners has placed reliance on the decision of Supreme Court of Preeti Gupta and Another Vs. State of Jharkhand and Another, wherein, it was found that the appellants, who were the relatives of the husband of the victim, had never visited the place of the alleged occurrence, the criminal proceeding against them was quashed. It has been submitted that no cause of action arose within the jurisdiction of the Tenughat Court at least against petitioner Nos. 2 and 3 and, accordingly, the continuation of the criminal proceeding against them in the Court of Tenughat is absolutely illegal and same is fit to be quashed.

5. Learned counsel for the State, on the other hand, has submitted that there is no illegality in the impugned order worth interference in the revisional jurisdiction, inasmuch as, there is specific allegation against all the accused persons and the cause of action arose within the jurisdiction of Tenughat Court

also.

6. After having heard the learned counsel for both the sides and upon going through the record, I find that there are specific allegations against all the petitioners to have subjected the victim to cruelty and torture for demand of dowry. The impugned order also shows that the Court below has discussed the materials against the petitioners in the case diary and has found sufficient materials for framing the charge, I also find that though the cause of action arose within the jurisdiction of the Dhanbad Court, but the part of the cause of action has arisen within the jurisdiction of Tenughat Court also, and the offence committed by the petitioners is a continuing offence, even within the jurisdiction of the Court below. The decision cited by the learned counsel for the petitioners in Preeti Gupta's case (supra) is not at all applicable to the facts of this case, in view of the fact that in the said case the appellants had never visited the place where the occurrence had actually taken place, but in the present case there are specific allegations of cruelty, torture and assault against all the petitioners. I do not find any illegality and/or irregularity in the impugned order worth interference in the revisional jurisdiction. There is no merit in this petition and the same is accordingly, dismissed.