

(2011) 04 JH CK 0016

Jharkhand High Court

Case No: Cr.M.P. No. 1612 of 2007

Manjit Kumar Singh and Others

APPELLANT

Vs

State of Jharkhand and Rakhee
Singh

RESPONDENT

Date of Decision: April 20, 2011

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 177, 202, 482
- Dowry Prohibition Act, 1961 - Section 4
- Penal Code, 1860 (IPC) - Section 406, 498A

Citation: (2011) 3 DMC 94 : (2011) 3 JCR 38 : (2011) 2 JLR 449 : (2011) 7 RCR(Criminal) 428

Hon'ble Judges: Dilip kumar sinha, J

Bench: Single Bench

Final Decision: Allowed

Judgement

D.K. Sinha, J.

Petitioners have invoked the inherent jurisdiction of this Court u/s 482 of the Code of Criminal Procedure for quashment of the order dated 21.9.2007, passed by Sri A.K. Tiwary, Judicial Magistrate, 1st Class, Jamshedpur in Complaint Case No. C-1-1250/2007 by which the Court found a prima facie case u/s 498A of the Indian Penal Code against the Petitioners and summons were directed to be issued against them. The Petitioners further requested for quashment of the entire criminal proceedings arising out of the said complaint case.

2. Short facts of the case as narrated in Complaint Case No. C-4-1250/2007 filed by the complainant-opposite party No. 2 Rakhee Singh is that she was married to the Petitioner No. 1 Manjit Kumar Singh on 27.6.2004 at Patna in the house of Sri H.C. Singh related to Manjit Kumar Singh and after the marriage, she was taken to Jamui where her matrimonial home was situated. At the time of her engagement, Rs. 2,00,000/- was given in cash and the father of the complainant promised to pay Rs.

5,00,000/- and one Alto car before the Tilak ceremony of the groom, but later on her father agreed to pay Rs. 10,00,000/- in cash and it was paid to the father of the groom before the marriage. Misery of the complainant started after two days of her marriage when she was brought to her matrimonial home where all the members of her matrimonial home stopped talking to her and even no meal was offered to her. On query, her husband explained that the members of his family were annoyed with her because TV, Fridge, Washing Machine and other articles were not given by way of presentation on the eve of her marriage. She tried to explain that her father had already spent Rs. 15,00,000/- on her marriage whereupon her husband Manjit Kumar Singh slapped and abused her and other accused persons also assaulted and abused asking her to return back to her father's home. She informed and her father immediately came to Jamui, who was also ill-treated at the hands of the accused. The father of the complainant could be agreed to meet out their demands. The complainant then proceeded to Delhi with the consent of her husband and her father had given Rs. 70,000/- for purchasing household articles. In the month of January, 2006 her husband's uncle came to Delhi with four other persons for his treatment and on that occasion also, her husband who was there asked the complainant to contact her father to send Rs. 20,000/- for his treatment, to which she refused to do so whereupon she was assaulted by her husband Manjit Kumar Singh, Mona Singh and Hemant Kumar Singh with fists and blows. She was locked in a room for several hours and she was released only when she agreed to ask her Mausea to come to Delhi with a draft of Rs. 10,000/-. In the meantime, she conceived and her husband was advised by his sister Mona Singh for her abortion, if her father was not ready to take her back to his house till delivery. The complainant declined for abortion. In the meantime, she became seriously ill and then she was taken to Jamui i.e. her matrimonial home by her husband and his brother Sanjit Suman against her will without treatment. After some time, she was again taken back to Delhi and on 4th May while she was preparing her last paper for examination, a ticket was handed over by Sanjit Suman to her for Jamshedpur and when she refused to go back to Jamshedpur, she was again assaulted and forcibly she was taken by her husband to Jamshedpur on 3.8.2006 where he stayed for three days and during such stay he insisted her to ask her father to transfer his Flat No. 306 situated at Rakesh Tower in his name, to which she denied, whereupon her husband got infuriated and suddenly returned back to Delhi asking the complainant never to come to him unless her father agreed to transfer the said flat in his name. On 28.9.2006, a son was born to the complainant and the news was given to her husband and other members of the family but neither any one came to Jamshedpur nor any message was sent to her. Her father went to Jamui and requested the father-in-law of his daughter to take her back at her matrimonial home but the father-in-law severed relationship by saying that his son did not want to live with her any more and that he refused to return the ornaments/jewelleries of the complainant, which were kept in the Bank locker. Persuasion was made by the father of the complainant to his son-in-law to settle the matter, to which he

proposed that his flat should be transferred in the name of the son of the complainant or to pay Rs. 10,00,000/- for the composition of a case related to a motor accident claim in which he was an accused and a person died in a motor accident at his instance. The father of the complainant returned back without any settlement and in this manner, the Petitioners committed offence under Sections 498A/406 of the Indian Penal Code as also u/s 4 of the Dowry Prohibition Act as alleged in the complaint petition.

3. Mr. P. P.N. Roy, the learned senior counsel, at the outset, submitted that he was not inclined to press the petition of the Petitioner No. 1 Manjit Kumar Singh i.e. the husband of the complainant and wanted to withdraw his petition for quashment however, with the liberty to agitate the matter before the competent court: at the appropriate stage for his discharge. The prayer is allowed with such liberty.

4. Raising the point of law, Mr. Roy submitted that no part of the occurrence took place within the territorial jurisdiction of the court: of Sri A.K. Tiwary, Judicial Magistrate, 1st Class, Jamshedpur so as to draw the impugned order dated 21.9.2007 by which he found a prima facie case against the accused persons u/s 498A of the Indian Penal Code and directed summons to be issued against them by fixing the date on 28.9.2007 for filing requisites.

5. Mr. Roy further submitted that from the plain reading of the Complaint Case No. C-1-1250/2007 and the statement of the complainant recorded on her solemn affirmation, it could be gathered that no part: of the occurrence took place at Jamshedpur except the averments made in para-13 of the complaint petition wherein it was stated that her husband Manjit Kumar Singh took her to Jamshedpur on 3.8.2006 and made unlawful demand of the property, to which the complainant denied to ask her father for transfer of his flat in the name of her husband whereupon Manjit Kumar Singh got infuriated and suddenly left for Delhi extending threat to the complainant not to come to him at Delhi unless her father agreed to transfer the flat in his name, but the Petitioner-husband is permitted to withdraw his case and therefore, the cognizance of the offence and the order impugned by which a prima facie case was found against the remaining Petitioners u/s 498A of the Indian Penal Code by the learned Judicial Magistrate, Jamshedpur was barred by jurisdiction u/s 177 of the Code of Criminal Procedure as the alleged cruelty was perpetrated either at Jamui within the State of Bihar or in Delhi. He further submitted that the offence alleged by which a prima facie case was found against the Petitioners was not a continuing offence, as such, same could not be tried at Jamshedpur and the learned C.J.M. without due diligence and application of judicial mind took the cognizance and transferred the complaint case in the court of Judicial Magistrate for inquiry u/s 202 of the Code of Criminal Procedure.

6. In Bhura Ram and Ors. v. State of Rajasthan and Anr., reported in 2008 (4) East CrC 86 (SC), the Apex Court of India held, "The facts stated in the. complaint disclose that the complainant left the place where she was residing with her husband and

in-(a.w s and came to the city of Sri Ganganagar, State of Rajasthan and that all the alleged acts as per the complaint had taken place in the State of Punjab. The court at Rajasthan does not have the jurisdiction to deal with the matter. On the basis of the factual scenario disclosed by the complainant in the complaint, the inevitable conclusion is that no part of cause of action arose in Rajasthan and, therefore, the "Magistrate concerned has no jurisdiction to deal with the matter. As a consequence thereof, the proceedings before the Additional Chief Judicial Magistrate, Sri Ganganagar are quashed. The complaint be returned to the complainant and if she so wishes she may file the same in the appropriate Court to be dealt with in accordance with law."

7. Learned Counsel appearing on behalf of the complainant-opposite party No. 2 very fairly conceded that it was the husband Manjit Kumar Singh, according to the recital of the complaint case, who had visited Jamshedpur along with his wife-complainant and it was alleged that he had raised demand that the flat, which was in the name of her father, be transferred in his name and left the place leaving the complainant there. No part of the alleged offence has been attributed against any of the remaining Petitioners.

8. In view of the legal and factual position discussed above, this petition is allowed. The order impugned by which the learned Judicial Magistrate, Jamshedpur found a prima facie case against the Petitioners except the husband Manjit Kumar Singh u/s 498A of the Indian Penal Code cannot be sustained under law as the same was recorded without considering that no part of the offence was attributed against the remaining Petitioners, which did take place in his territorial jurisdiction. Accordingly, entire criminal proceedings of the Petitioners S.K. Singh @ Satyendra Kumar Singh, Sanjit Suman, Hemant Kumar Singh and Mona Singh including the order dated 21.9.2007 in so far as it relates to these Petitioners passed in Complaint Case No. C-1-1250/2007 is set aside. This petition is allowed in the manner indicated above.