

Shakil Ahmad and Others Vs State of Jharkhand and Another

Court: Jharkhand High Court

Date of Decision: Feb. 2, 2011

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 482
Penal Code, 1860 (IPC) â€” Section 498A

Citation: (2011) 2 JCR 41 : (2011) 8 RCR(Criminal) 2231

Hon'ble Judges: D.K. 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 entire criminal proceedings including the order impugned dated 13.12.2000 by which Shri S.K. Upadhyay, Judicial Magistrate, Ranchi found

prima facie offence u/s 498-A of the Indian Penal Code against the Petitioners.

2. Prosecution story in short was that the complainant-Nikhat Parween opposite party No. 2 herein was married to the Petitioner No. 1 Shakil

Ahmad and two children were born to them from their wedlock. At the time of nikah, Dainmehr was fixed at Rs. 10,000/- with dinars but the same

could never be paid to her. Besides, jewelleryes made of gold and silver, various costly articles and gifts were presented to the complainant on the

eve of her marriage and she had carried all those items with her to matrimonial home at Rajganjpur. It was alleged that the Petitioner-husband

demand cash of Rs. 40,000/- from the complainant to be brought from her parental home on the pretext that he had to start his business and in

that process, all his relatives joined him and subjected her to torture in various ways. However, a sum of Rs. 15.000/- was given to her husband in

the expectation of better future of the complainant, but her miseries did not end here. She was driven out by the accused persons from her

matrimonial home and since then she was living and leading a hapless life at Ranchi along with her minor children.

3. Learned Counsel appearing on behalf of the Petitioners submitted that during the period of litigation between the parties compromise was

effected, accordingly, a joint compromise petition was filed on 6.4.2002 which contained one of the terms that the husband-Petitioner No. 1 would

provide Rs. 1,200/- as her monthly maintenance and husband-Petitioner No. 1 is continuing by paying the amount to the complainant and pursuant

to such terms contained in the agreement the parties expressed to withdraw their cases, which they had filed against each other, including the

present case.

4. The complaint petition was filed in the year 2000 and after inquiry having been found prima facie case for the offence u/s 498-A of the Indian

Penal Code, notices were directed to be issued to the Petitioners by the impugned order dated 13.12.2000.

5. Raising the point of jurisdiction, the learned Counsel appearing for the Petitioners, at the outset submitted that no part of the occurrence took

place within the territorial jurisdiction of the Judicial Magistrate, Ranchi and the complainant in her complaint petition admitted that torture was

extended to her at her matrimonial home situated at Rajganjpur, PS Rajganjpur, district-Sundergarh within the State of Orissa where she lived with

her husband and two children were born from their wedlock. Demand of money to the tune of Rs. 40,000/- was made by the husband at

Rajganjpur and the allegation of torture in connection with alleged demand also took place at Rajganjpur.

6. Hon"ble Supreme Court of India in Bhura Ram and Others Vs. State of Rajasthan and Another, , observed,

The facts stated in the complaint disclose that the complainant left the place where she was residing with her husband and in-laws 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 senior counsel, Mr. Jai Prakash, appearing on behalf of the opposite party No. 2, has not disputed the legal position and proposition

made by the Apex Court in Bhura Ram and Ors. v. State of Rajasthan and Anr. (supra).

8. Having regard to the facts and circumstances of the case and admitted legal position, this petition is allowed and the order impugned dated

13.12.2000, by which prima facie allegation u/s 498-A of the Indian Penal Code was found against the accused Petitioners by the learned judicial

Magistrate. Ranchi in Complaint Case No. 85/2000, is set aside since barred by territorial Jurisdiction.

9. It is made clear this order will not stand in any way in filing a fresh complaint by the complainant-opposite party No. 2 before a Court of

competent jurisdiction.