

**(2011) 02 JH CK 0010**

**Jharkhand High Court**

**Case No:** Criminal Misc P. No. 1091 of 2009

Shakil Ahmad and Others

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

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**Date of Decision:** Feb. 2, 2011

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Penal Code, 1860 (IPC) - 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

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**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-Nikhath 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, jewellerys 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 demanded 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.