

(2010) 09 JH CK 0054

Jharkhand High Court

Case No: Writ Petition (Cr.) (HB) No. 132 of 2010

Yogendra Prasad Sao

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: Sept. 21, 2010

Acts Referred:

- Penal Code, 1860 (IPC) - Section 498(A)

Hon'ble Judges: Jaya Roy, J; Amareshwar Sahay, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. Heard Mrs. Vandana Bharti, learned Counsel for the Petitioner and Mr. M.K. Sinha, learned SC-III for the State.

2. In compliance with the order dated 06/09/2010, the Officer-in-Charge, Nimiaghata Police Station, has produced Smt. Renu Devi (Respondent No. 7) in Court. Respondent No. 6 namely, Santosh Kumar Sao, who is the husband of Smt. Renu Devi, Respondent No. 7, as well as the writ Petitioner are also personally present in Court.

3. The Petitioner alleges in this petition that Respondent No. 6 has illegally confined his daughter Renu Devi and, therefore, prayer has been made to recover Respondent No. 7 Renu Devi from the custody of Respondent No. 6 and to hand over to the Petitioner, who is her father. He further alleges that Respondent No. 6, i.e. his son-in-law is suffering from mental diseases/ disorder and he used to torture and assault his daughter due to which her daughter Renu Devi has also become mentally sick. Her daughter has also filed a divorce suit as well as a criminal case u/s 498A IPC against her husband, which is still pending and, therefore, in such a situation, he apprehends that his daughter may be killed by Respondent No. 6 if she is allowed to remain in his illegal custody.

4. In view of the fact that the matter relates to matrimonial dispute as well as of alleged illegal detention and, as such, we thought it proper to take up the matter in our Chambers and, accordingly, the matter has been taken up in the Chambers in presence of all the parties and their counsel.

5. We talked to the lady Respondent No. 7 Smt. Renu Devi, her husband Respondent No. 6 as well as the writ Petitioner separately.

6. Smt. Renu Devi, Respondent No. 7 stated that she got education up to class-IX and she has a female child, who is presently aged about seven years and she goes to a school in which her husband Respondent No. 6 is a Para Teacher. She specifically stated that she, at her own will, is residing in the house of her husband with her daughter and leading a peaceful conjugal life. All the allegations made by her father, i.e. the writ Petitioner in this writ petition are all false and baseless. Her husband is neither a mental patient nor he commits any sort of torture or assault on her. As a matter of fact, her father, i.e. the writ Petitioner is unnecessarily interfering in her married life causing all sorts of problems. She further states that the divorce case as well as the criminal case was filed by her against her husband at the instance of her father and she does not want to proceed with those cases. Rather she wants to withdraw those cases and this decision she has taken keeping in view of her future as well as the future of her daughter. She does not apprehend any danger on her life.

7. We personally talked to Respondent No. 6, the husband of Respondent No. 7 Renu Devi and he states that his wife Renu Devi is living with him voluntarily and without any pressure and he does not commit any sort of torture or "marpit". He does not suffer from any mental ailment. He alleges that his father in-law, i.e. the writ Petitioner, who is a educated man is of shrewed nature and he is implicating him in false cases one after the other. His only intention is to realize a handsome amount of money from him.

8. The Petitioner in his statement has supported the allegations and stated that his daughter, who is in illegal custody of Respondent No. 6 may be recovered and her custody may be given to him so that her life can be saved.

9. A counter affidavit has also been filed by the Dy. S.P., Giridih. It is stated in the counter affidavit that the allegations made by the Petitioner against Respondent No. 6 was inquired into and on enquiry it revealed that marriage between Respondent Nos. 6 and 7 was held in the month of July 2003 and in the year 2004 a complaint case was filed by the Petitioner in the Court of Chief Judicial Magistrate, Giridih. Respondent No. 7 Renu Devi also lodged an F.I.R. u/s 498A IPC in the year 2006 against her husband and in the year 2007, she filed a case for maintenance and divorce before the Family Court, Giridih. It is stated that they have a daughter aged about 6 years. In the counter affidavit it is also stated that she expressed her willingness to live with her husband and they are living happily as a wife and

husband. Respondent No. 7 personally appeared before the Officer-in-Charge, Dumri Police Station on 18/02/2010 and stated that she wants to live with her husband and the statements that she has forcibly been taken by her husband Respondent No. 6, are all incorrect.

10. After talking to the writ Petitioner, it appears to us that he is unnecessarily interfering in the matrimonial life of his daughter and his son-in-law. From the statements made by Respondent No. 7 and Respondent No. 6, we find that the allegations made by the writ Petitioner to the effect that Respondent No. 7 is in illegal confinement of her husband Respondent No. 6 or that Respondent No. 6 is suffering from any mental disease are not correct and baseless.

11. For the reasons stated herein above, we do not find any merit in this writ petition. Accordingly, the same is hereby dismissed.

12. The Officer-in-Charge, Nimiaghata Police Station, who is personally present before this Court, is directed to see that the writ Petitioner does not interfere in the matrimonial life of Respondent Nos. 6 and 7. If he tries to create any sort of problems in future for them, the police may take appropriate action against him.

13. With these observations and directions, this writ petition stands dismissed.