

**(2008) 09 JH CK 0054****Jharkhand High Court****Case No:** None

Smt. Dukhini Giri Pradhan

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

**Date of Decision:** Sept. 12, 2008**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 125
- Penal Code, 1860 (IPC) - Section 498A

**Citation:** (2008) 4 JCR 461**Hon'ble Judges:** Dilip kumar sinha, J**Bench:** Single Bench**Final Decision:** Allowed**Judgement**

@JUDGMENTTAG-ORDER

D.K. Sinha, J.

The petitioner has preferred this petition for transfer of G.R. No. 644 of 2003 pending in the Court of S.D.J.M., Seraikella to the corresponding Court at Jamshedpur on the following grounds :

2. The petitioner had lodged an FIR being Kharwan P.S. Case No. 31 of 2003 alleging inter alia that she was married to the opposite party No. 2 Raghunandan Pradhan on 29.4.1985 but after the marriage her in-laws started behaving inhumanly and attributed cruelty after she arrived at her matrimonial home. Her husband did not lag behind in so doing in various manner. The police registered the case and submitted charge-sheet after investigation for the offence u/s 498-A of the Indian Penal Code against the accused persons including the opposite party No. 2 Raghunandan Pradhan, opposite party No, 3 Jhantu Pradhan and opposite party No. 4 Niwketan Pradhan. Having been satisfied with the *prima facie* materials against them, the learned Court below took cognizance of the offence u/s 498-A of the Indian Penal Code and after framing of charge, the opposite party Nos. 2, 3 and 4

were put on trial.

3. The grievance of the petitioner is that she is living at Jamshedpur in her parental home with her parents and two children and that she has been under constant threat from the members of the opposite party aforesaid asking her not to adduce evidence otherwise, she was cautioned to face the consequences. She was concerned and apprehensive for the reasons as well that her younger brother was kidnapped earlier by the accused in order to put undue pressure upon her and in this connection she had sent a letter to the Chairman, National Human Rights Commission, New Delhi (Annexure-3). She further disclosed the occurrence in respect to the event dated 19.9.2006 that the members of the opposite party attempted to kidnap her son to which she informed the police (Annexure-4). That apart, all the material witnesses of the case belonged to Jamshedpur scared in coming at Seraikella to depose in view of the past conduct of the members of opposite party. Finally it was submitted that the petitioner being a lady was not at all in a position to produce the witnesses in the Court at Seraikella under given situation and threat on her life, as such she preferred this petition to get the G.R. No. 644 of 2003 pending in the Court of SDJM Seraikella transferred to the Court of Sessions Judge, at Jamshedpur.

4. Heard Mr. D.K. Karmakar. the learned Counsel on behalf of the opposite party No. 2.

5. Notices were sent to the opposite party Nos. 3 and 4 at different occasions by different modes but the service report indicated that they were not found on the given address though they are said to be the close relatives of the opposite party No. 2 and the in-laws of the petitioner. The opposite party No. 2 entered appearance by executing vakalatnama and I have, therefore, reason to believe that opposite party Nos. 3 and 4 have wilfully avoided appearance in this case and thus, there is no way out except to pass the order in their absence.

6. The main contention of the learned Counsel for the opposite party No. 2 is that the petitioner-wife had instituted several cases including a complaint case for the same set of facts and allegations against the opposite party No. 2 and others besides, a proceeding initiated u/s 125 of CrPC against the opposite party No. 2 before the Principal Judge, Family Court, Jamshedpur in which he appeared and had shown his causes. Finally it was submitted that at the instance of the petitioner. Kharwan P.S. Case No. 31 of 2003 for the offence u/s 498-A of the Indian Penal Code was instituted and now she wanted that the same may be transferred to the Court at Jamshedpur only with a view to harass them who have been vexed twice on false allegation. The learned Counsel further submitted that had there been any threat extended by the opposite party Nos. 2 to 4, she being a bold lady must have complained before the local police or any other authority though she admitted having complained the different issue before the Chairman, National Human Rights Commission, New Delhi in respect of missing of her younger brother. The petitioner,

therefore, wants to drag the members of the opposite party, who are innocent having no fault at all on their part, to the Court at Jamshedpur for no substantial reason and her transfer petition therefore, bears no merit for consideration.

7. Having regard to the facts and circumstances of the case, I find the allegation that the brother of the petitioner was kidnapped sometime ago and according to her version, he was kidnaped at the instance of the members of the opposite party Nos. 2, 3 and 4 but without any conclusive evidence on the record

8. Yet I feel she being the lady might be confronting difficulty in coming to Seraikella Court for pursuing her case and to produce the witnesses who are also scared with the conduct of the members of opposite party and that an attempt was also made to kidnap her son.

9. I therefore, find that her cause reasonably requires consideration.

10. Accordingly, this Tr. Petition (Cr.) is allowed and Kharwan P.S. Case No. 31 of 2003 corresponding to G.R. No. 644 of 2003 pending in the Court of SDJM, Seraikella is directed to be transferred to the corresponding Court at Jamshedpur for speedy trial and disposal preferably within three months from the date of the receipt of the record.