

IN THE HIGH COURT OF JHARKHAND, RANCHI.

Cr.M.P. No. 1155 of 2010

1. Ajit Kumar Rai
2. Laxmi Prasad Rai
3. Chanchala Devi
4. Mamta Devi
5. Anju Kumari
6. Dhruv Singh @ Dhruv Deo Singh .. Petitioners.

Versus

1. The State of Jharkhand
2. Rekha Devi Opp. Parties.

Coram :- Hon'ble Mr. Justice D.K.Sinha

For the Petitioners :- M/s. Ramesh Kumar Singh Kunal Kishore

Rakesh Kumar Advocates.

For the State :- Mr. Md. Hatim A.P.P. For the O.P.No.2 :- Mr. Kalyan Banerjee Advocate.

3/25.3.2011 The petitioners have invoked the inherent jurisdiction of this Court under section 482 of the Code of Criminal Procedure for quashment of their entire criminal proceeding including the order dated 3.10.2008 by which Sri. A.K. Dubey, the Judicial Magistrate, Ist Class, Dhanbad after enquiry, found a prima facie case under sections 498A and Section 494 of the Indian Penal Code against the petitioner No.1 Ajit Kumar Rai and under section 498A IPC against the remaining petitioners in C.P. Case No. 1477 of 2007, accordingly, summons were directed to be issued against all of them who were later on admitted to anticipatory bail.

2. The prosecution story in short, as per the complaint lodged by the O.P. No.2 Rekha Devi in the court of CJM, Dhanbad on 11.9.2007 was that she was married to the petitioner No.1 Ajit Kumar Rai in the year 2002 in the premises of Deoghar Temple and after marriage she went to her matrimonial home at Maniadhi P.S. Tundi within the district of Dhanbad . She narrated in the complaint that on the eve of marriage, Rs one lakh in cash, gold, furniture and utensils were given to them. She remained peacefully at her matrimonial home for one year but thereafter all the accused persons started perpetrating torture alleging that she could not be able to bear any child in the meantime. She further alleged that her mother-in-law, father-in-law, sister-in-law and husband used to administer two tablets in the morning and evening as a result of which her health deteriorated day by day. She was then taken away by her brother to parental home for her treatment and in the meantime, taking the benefit of her absence, the husband-petitioner No.1 solemnized second marriage with another girl on the instigation of other accused persons to which a panchayati was held and according to the resolution, she was allowed to stay at her matrimonial home but again her misery started and accused persons tried to create such a situation and to put such impression that she would be killed it continued to stay there. She was kept confined in a room without food and inhuman behaviour was extended to her and finally she was driven out by the accused persons by assaulting her. She any how reached her paternal home and narrated the

occurrence to her brother. She then went to the Tundi police Station where she was advised to institute complaint case.

3. The learned counsel appearing for the petitioners submitted that taking of cognizance of the offence is barred by jurisdiction. The cause of action arose within the jurisdiction of the Deoghar court but her complaint case was filed before the CJM Dhanbad. Admittedly, petitioner No.1 Ajit Kumar Rai is the husband, whereas the petitioners No.2,3,4 and 5 are the father-in-law, mother-in-law, second wife and sister of the husband of the complainant respectively. It would be relevant to mention from perusal of the complaint petition that the entire allegation was levelled either of perpetrating torture or solemnizing second marriage against the husband but all the members of his family, who were unconcerned with the affairs of the complainant and her husband, have been maliciously impleaded. It would be evident from the statement of the complainant recorded on solemn affirmation by the CJM wherein she narrated that when she visited her parental home to attend the marriage of her brother, her husband solemnized second marriage with another girl Mamta Devi and thereafter she was driven out from her matrimonial home by her husband and she had no where alleged that she was assaulted by any other member/ in-laws of her matrimonial home.

4. Mr.Kalyan Banerjee, the learned counsel appearing on behalf of the O.P. No.2 submitted that the complainant was driven out from her matrimonial home after her husband solemnized second marriage with another girl without seeking decree of divorce and that such second marriage could be possible only with the consent of the other members of his family and therefore they cannot be exonerated from their criminal liability who abetted which led to the complainant to suffer miserable and deserted life. The entire occurrence took place within the jurisdiction of the Dhanbad court except the marriage of the complainant with the petitioner No.1 Ajil Kumar Rai which was solemnized at Deoghar Temple.

5. Heard Mr. Hatim the learned A.P.P. appearing on behalf of the State.

6. Having regard to the facts and circumstances of the case, composite reading of the complaint petition as well as the statement of the complainant recorded on solemn affirmation, I find that the husband-petitioner No.1 was the principal accused who perpetrated torture mentally and physically to her and that he solemnized second marriage with another girl in the life time of the complainant. I further find that though some overtact alleged to have been attributed against the father-in-law, mother-in-law and sister-in-law of the complainant who were the petitioners No. 2,3 and 5 herein but such allegation could not be substantiated in the statement of the complainant on her solemn affirmation and therefore, I find that the facts alleging against all the petitioners in the complaint case could not be substantiated in her statement recorded on solemn affirmation. No overt act has been attributed against the in-laws except the husband and false implication of the in- laws, in the circumstances has been deprecated by various decisions .

7. In the result I find prima facie case against the petitioner No.1 Ajit Kumar Rai to proceed against him for the offence under sections 498A/494 of the Indian Penal Code but for the reasons discussed above I find that it is a fit case for quashment of the criminal proceeding of the other petitioners viz Laxmi Prasad Rai,Chanchala Devi, Mamta Devi,Anju Kumari and Dhrup Singh @ Dhrup Deo Singh in C.P.Case No. 1477 of 2007 pending in the court of Sri.A.K.Dubey, Judicial Magistrate, Ist Class Dhanbad. Accordingly, they are exonerated from their criminal liability. This petition is allowed in part in the manner indicated above. The trial court is directed to proceed against the husband- petitioner No.1 Ajit Kumar Rai in accordance with law.

(D.K.Sinha,J)

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