

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**Cr. M.P. No. 1695 of 2010**

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## 2. Shabana Perween

#### 4. Md. Rafique

## 5. Shama Perween

6. Md. Faruque

7. Zamal Ahmad .... Petitioners

## Versus

## 1. The State of Jharkhand

2. Nasrin Fatima .... Opp. Parties

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For the Petitioners : Ms. Madhulika Das Gupta, Advocate

For the State : Mr. Ravi Kumar Singh, A.P.P.

For the O.P. No.2 : Mr. Anjani Kumar Verma, Advocate

Mr. Amit Kumar Verma, Advocate

**C.A.V ON:11.01.2018**

**PRONOUNCED ON : 31.01.2018**

Instant application has been filed for quashing of order dated 10.11.2010 passed by Sub Divisional Judicial Magistrate, Ranchi in C.P. Case No.2540 of 2009 corresponding to T.R. No.490 of 2010 whereby the court has found prima facie case under Sections 313, 498A and 506 of the Indian Penal Code and Section 4 of Dowry Prohibition Act and issued summons against all the accused persons.

2. The prosecution case, in short, is that complainant- Nasrin Fatima filed a case before the court of Chief Judicial Magistrate, Ranchi numbered as C.P. Case No.2540 of 2009 alleging that she was married with Md. Rafique on 13.11.2006 at Ranchi and after the marriage she went to her matrimonial home at Dugda, District- Purulia and was residing there. The further case is that after one month of marriage all the accused persons demanded Rs.5,00,000/-

and a car as dowry and for its nonfulfillment she was threatened with dire consequences. The accused persons not permitted her to meet with any neighbour. They were always abusing her in filthy language. The father-in-law and brother-in-law were keeping bad eyes upon her. No treatment was given while she fell ill. The further case is that father-in-law had taken her signature on a blank paper. It was stated by the accused persons that if the demand of dowry is not fulfilled then her husband would be married again with another lady.

3. Counsel for the petitioners submitted that Section 177 of the Code of Criminal Procedure states that every offence obviously be enquired into and tried by a court within whose local jurisdiction it was committed but in the present case the offence committed according to prosecution case in the District of Purulia (West Bengal). The case has been registered in the District of Ranchi (Jharkhand) which has no jurisdiction to try the matter according to the fact and circumstances of this case. She further submitted that continuance of criminal proceeding will amount to abuse of process of law as the case is not maintainable in law. She relied on decisions of *Ajay Kr. Jain @ Ajay Kr. Kala @ Ajay Kumar Jain (Kala) & Ors. Versus State of Jharkhand & Anr* reported in 2007 (2) JLJR 282; *Amarendu Jyoti & Ors. Versus State of Chhattisgarh & Ors.* (2014) 12 SCC 362; *Manoj Kumar Sharma & Ors. Versus State of Chhattisgarh & Anr.* (2016) 9 SCC 01; and *K.V. Prakash Babu Versus State of Karnataka.* (2017) 11 SCC 176. She further submitted that the entire incident of torture as per allegation was committed at Purulia so the court at Ranchi has no

jurisdiction to proceed in the case.

4. Counsel for the opposite party no. 2 submitted that the complainant was compelled to leave her home therefore, she had no alternative but to file her case at Ranchi. The father of the complainant went there and faced much inconvenience and then the complainant could return with him for Ranchi. He further submitted that the marriage was solemnized at Ranchi and thereafter complainant went to Purulia to reside at matrimonial home therefore, the Ranchi court has jurisdiction to entertain the complaint. He relied on a decision of *Krishna Kumar Variar Versus Share Shoppe* reported in *2010 Cri. L. J. 3848 (SC)*. The Hon'ble Apex Court has held that the court concerned should approach the trial court first with suitable application who will decide the question of jurisdiction before proceeding in the case. In the instant case, petitioners have not raised the objection before the trial court.

5. Learned A.P.P. submitted that the petitioners ought to have approached the trial court for passing order on the issue of jurisdiction. This point was never raised before the court below and for the first time it has been raised herein.

6. Considering the above pleadings of the party and on perusal of the decisions cited above, it appears that the petitioners have relied on the decision of *Ajay Kr. Jain @ Ajay Kr. Kala @ Ajay Kumar Jain (Kala) & Ors. Versus State of Jharkhand & Anr.* (supra) where the court has held that the court at Hazaribag has no jurisdiction to entertain the complaint and to continue the proceeding and thereby

set aside the entire criminal proceeding for want of jurisdiction. In similar situation, the case of *Amarendu Jyoti & Ors. Versus State of Chhattisgarh & Ors.* (supra) the Hon'ble Apex Court has held that the court at Ambikapur has no jurisdiction to try the offence since the appropriate court at Delhi would have jurisdiction to try the said offence and allowed the appeal. But the court considered it appropriate, in the interest of justice to permit the court of Ambikapur to proceed with the trial of criminal case. The another case relating to *Manoj Kumar Sharma & Ors. Versus State of Chhattisgarh & Anr.* (supra). The Hon'ble Court has held that the territorial jurisdiction of the court with regard to a criminal offence would be decided on the basis of the place of occurrence of the incident. In the instant case, the suicide was committed at Ambala. Ambala Police closed the case after fulfilling the requirements as well as none of the family members of deceased raised any suspicion over the death and there was no evidence of it being a continuing offence. Hence the court held that the Judicial Magistrate, 1<sup>st</sup> Class, Durg has no territorial jurisdiction to try the case and proceedings was quashed on the ground of lack of territorial jurisdiction since the cause of action for the alleged offence had purportedly arisen in the city of Ambala. The case of *K.V. Prakash Babu Versus State of Karnataka* (supra) relates to the case under Sections 498A, 306 I.P.C. has not dealt with the question of territorial jurisdiction. All these references are in the line that where the offences has been committed, the court having the territorial jurisdiction would be competent to try

the case.

7. The decision of *Krishna Kumar Variar Versus Share Shoppe* (supra) relied by the opposite party wherein the Hon'ble Apex Court has opined that the trial court should be approached first for deciding the question of jurisdiction. The relevant Paragraphs 5 and 6 are quoted hereinbelow:-

*"5. In our opinion, in such cases where the accused or any other person raises an objection that the Trial Court has no jurisdiction in the matter, the said person should file an application before the Trial Court making this averment and giving the relevant facts. Whether a Court has jurisdiction to try/entertain a case will, at least in part, depend upon the facts of the case. Hence, instead of rushing to the higher Court against the summoning order, the concerned person should approach the Trial Court with a suitable application for this purpose and the Trial Court should after hearing both the sides and recording evidence, if necessary, decide the question of jurisdiction before proceeding further with the case.*

*6. For the reasons stated herein above, the impugned judgment and order is set aside and the appeal is allowed. The appellant, if so advised, may approach the Trial Court with a suitable application in this connection and, if such an application is filed, the Trial Court shall after hearing both the sides and after recording evidence on the question of jurisdiction, shall decide the question of jurisdiction before further proceeding with the Trial."*

8. In the instant case, the marriage was solemnized at Ranchi (Jharkhand) but as per the submission, the offences of torture inflicted at Purulia District (West Bengal). Therefore, the trial court may be approached for deciding the issue of territorial jurisdiction before proceeding in the case.

9. In the result, this criminal miscellaneous petition is dismissed with the above observation.

**(B.B.Mangalmurti, J.)**