

CRIMINAL REVISION

Present: The Hon'ble Justice Ashim Kumar Roy

Date of Judgment – 26.04.2010

C.R.R. 141 of 2010

Pradip Mawatwal

Versus

The State of West Bengal & Ors

Points-

Jurisdiction- Dowry articles were received by the accused persons within the jurisdiction of the Court- No charge sheet has been submitted by the Police for such offence- whether Court have jurisdiction to try the case.- Indian Penal Code- Ss. 498A/406/323/506

Facts:

The wife/Op-2 herein made a complaint against her husband under Section 498A/406/323/506 of the Indian Penal Code before the Kharagpur Police Station – FIR case was registered being P.S.Case No.214/08 – which is still Pending before this Ld. CJM, Paschim Medinipore – Cruelty by the husband on demand of dowry and for other reasons were taken place of matrimonial home of the complainant / wife at bally, Howrah – in that ground the husband petitioner filed this application U/s 482 of CPC for quashing of chargesheet under section 498A/406/323/506 of the Indian Penal Code on the ground that the Court of CJM, Paschim Medinipore is lacking of territorial jurisdiction to held the trial of th case as no part of cause of arose within his territorial limit.

Held:

A prima facie case for offences punishable under the Dowry Prohibition Act has been made out. It might be that no charge-sheet has been submitted by the police for the said offences, however the Court is not bound by the conclusion arrived at by the police and it is the duty of the Court to find out from the evidentiary materials collected by the police during investigation, if any other offence apart from the offences for which charge-sheet has been submitted, has been made out or not. In case, the Court finds from the evidentiary materials that some other offence has also been made out, for which no charge-sheet has been submitted, then in that case Court is obliged to proceed against the accused for such offences also. Moreover, in this case the dowry articles were received by the accused persons at Kharagpur and some of such articles included stridhans, thus when there is a case of criminal breach of trust in respect thereof, the Court concerned within whose jurisdiction such articles were received by the accused persons, cannot be said to be lacking of jurisdiction to try the case for such offence. Para 3

Mr Sabyasachi Banerjee

Mr Amal Krishna Saha

For the petitioner

Mr Swapan Kumar Mullick

For the state

Mr Siddique Rahaman

For Opposite Party no-2

The Court :

Invoking Section 482 of the Code of Criminal Procedure, the petitioner has moved this Court for quashing of a charge-sheet under Sections 498A/406/323/506 of the Indian Penal Code relating to the G.R. Case No. 1706 of 2008, now pending before the Learned Chief Judicial

Magistrate, Paschim Midnapore arising out of Kharagpur Police Station Case No. 214/08 only on the ground that the Court of the Learned Chief Judicial Magistrate, Paschim Midnapore is lacking of territorial jurisdiction to hold the trial of the case as no part of cause of action arose within his territorial limit.

2. Heard the learned advocates appearing on behalf of the parties.

Perused the Case Diary containing the First Information Report and charge-sheet materials.

3. Having gone through the Case Diary, I find that it is true the entire incident of subjecting her to cruelty on demand of dowry and for other reasons

were taken place at the matrimonial home of the complainant situated at Bally, Howrah. I also find according to the defacto-complainant, all her ornaments were taken out from her possession on the plea of safety two days after her marriage, at her matrimonial home at Bally, Howrah. However, this Court cannot overlook the allegations that at the time of the marriage, solemnized at Kharagpur on the demand of the accused persons a cash amount of Rs. 2 lakhs as well as various other articles were given to them as dowry. Therefore, on the face of such allegations a prima facie case for offences punishable under the Dowry Prohibition Act has been made out. It might be that no charge-sheet has been submitted by the police for the said offences, however the Court is not bound by the conclusion arrived at by the police and it is the duty of the Court to find out from the evidentiary materials collected by the police during investigation, if any other offence apart from the offences for which charge-sheet has been submitted, has been made out or not. In case, the Court finds from the evidentiary materials that some other offence has also been made out, for which no charge-sheet has been submitted, then in that case Court is obliged to proceed against the accused for such offences also. Moreover, in this case the dowry articles were received by the accused persons at Kharagpur and some of such articles included stridhans, thus when there is a case of criminal breach of trust in respect thereof, the Court concerned within whose jurisdiction such articles were received by the accused persons, cannot be said to be lacking of jurisdiction to try the case for such offence.

For the reasons stated above, I do not find any merit in this application and this application accordingly stands dismissed. Interim order, if any, stands vacated.

Criminal Section is directed to deliver urgent Photostat certified copy

of this Judgement to the parties, if applied for, as early as possible.

(*Ashim Kumar Roy, J.*