

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46249 of 2016

Arising Out of PS. Case No.-3735 Year-2014 Thana- SARAN COMPLAINT CASE District-
Saran

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1. Pappu Kumar and Ors S/o Jaimangal Rai
 2. Manoj Kumar S/o Ram Balak Rai
 3. Rinku Devi W/o Manoj Kumar
 4. Ashok Kumar S/o Jaimangal Rai
 5. Malti Devi W/o Ashok Rai @ Ashok Kumar

All residents of Village- Sithauta, P.S.- Bhagwanpur, Dist- Vaishali.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Sujata Kumari W/o Pappu Kumar, D/o Ashok Kumar Yadav presently
residing at Village- Kajipur, P.s.- Doriganj, Dist- Saran Chhapra

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Mahendra Thakur, Advocate
For the State	:	Mr. Sri Madan Kumar, APP
For the Informant	:	Mrs. Rima Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE RANA VIKRAM SINGH

CAV JUDGMENT

Date : 07-08-2026

An application under Section 482 Cr.P.C has been filed for quashing the order dated 26.05.2015 passed by the learned Judicial Magistrate 1st Class, Saran at Chapra in T.R. No. 2525/16 (arising out of Complaint Case No. 3735/14) whereby the learned Judicial Magistrate finding prima facie case under



Sections 323, 498A and 494 of the Indian Penal Code issued process against the petitioners for their appearance to face trial. The petitioners herein are husband, cousin- in-law (dewar) and his wife, elder Brother in-law (bhaisur) and his wife.

2. The complainant namely, Sujata Kumari filed a complaint case on 22.12.2014 in the Court of learned Chief Judicial Magistrate, Saran at Chapra alleging therein that her marriage was solemnized with Petitioner No. 1 in accordance with Hindu Rites and Rituals on 17.03.2013, thereafter, she started her conjugal life at matrimonial home at Village Sithauta, P.S. Bhagawanpur, District Vishali, at Hajipurpur. After some time, all the accused persons, as named in the complaint application, started variously torturing her for non-fulfillment of dowry and she was pressurized to ask her father to give gold jewelry, TV, refrigerator, bed, sofa, washing machine, etc.

3. It is further alleged that out of wedlock, a girl child was born. Thereafter, the in-laws also started pestering her and also threatened that on account of non-fulfillment of dowry demand, the husband will solemnize second marriage where from they will get sufficient dowry. On 17.03.2013, the husband, mother-in-law, Dewar (petitioner no. 2) and petitioner no. 4 scolded her to get out of the house and attempted to set her on fire after



sprinkling K-Oil. In order to save herself, the complainant ran away and having reached her parental home, she disclosed the torturous behavior of her in-laws where after her parents variously requested her in-laws to keep her with all dignity and affection and in times to come, they will fulfill all their demands. The husband of complainant namely, Pappu Kumar solemnized second marriage with Dolly Kumari in December, 2013 and thereafter, the complainant had been residing with her parents. Hence, this complaint was instituted, which was numbered as Complaint Case No. 3735/2014, and solemn affirmation of the complainant was recorded along with the statement of three inquiry witnesses namely, Roshan Kumar Yadav, Ashutosh Kumar and Ashok Kumar Yadav respectively, in support of the allegations so made in the complaint petition.

4. Having perused the materials available on record and statement of inquiry witnesses along with the solemn affirmation of the complainant, the learned Judicial Magistrate 1st Class, Saran at Chapra, finding prima facie case under Sections 323, 498A and 494 of the Indian Penal Code, issued processes against the petitioners for their appearance.

5. Learned counsel for the petitioners has assailed the order of cognizance primarily on the ground that the Court,



taking cognizance of the offences under Sections 323, 498A and 494 of the IPC lacks territorial jurisdiction. Hence, the order is bad in law and as such, is fit to be set aside.

6. In support of his contention, he submits that the complainant was residing at her matrimonial home, which is situated in the District of Vaishali and all the act of torture alleged to have been committed within the District of Vaishali. Hence, the complainant should have filed a complaint application in the Civil Court of Vaishali instead of filing it at Saran at Chapara, which has no jurisdiction over the alleged occurrence which has taken place outside its territorial jurisdiction. The learned counsel for the petitioners, by placing reliance on Sections 177 Cr. PC, as covered under chapter XIII of Cr.P.C submits that in terms of the mandatory provisions as contained in Section 177 Cr.PC, the offence shall be inquired into and tried by a Court within which local jurisdiction it was committed and as such, the learned Judicial Magistrate 1st Class, Saran at Chapra who has taken cognizance of the offence in the case at hand, has no jurisdiction over the offence which has been committed within the territorial jurisdiction of Vashali at Hajipur.

7. In order to fortify his argument with respect to the



Court lacking territorial jurisdiction, he relied upon a judgment delivered in the case of *Amarendu Jyoti and Ors vs State of Chhattisgarh and Ors.*, reported in (2014)12 SCC wherein FIR for offences under Section 498A of the IPC and other sections have been quashed with the aid of Section 177 of the Cr.P.C. on the ground that the local police lacked the territorial jurisdiction to investigate the matter.

8. At last, he submits that the order taking cognizance against the petitioners are not only perverse, but bad in law on account of it being passed by a Court which has no territorial jurisdiction over the incident for the offences which alleged to have taken place within the territorial jurisdiction of other District.

9. Vide order dated 23.08.2018, this Court had issued notice to O.P No. 2 i.e., complainant and in the meantime, further proceedings of the Complaint Case No. 3735/2014 pending in the Court of the learned Judicial Magistrate 1st Class, Saran at Chapra has been stayed. Thereafter, vide order dated 28.07.2025, the matter was referred to the Patna High Court Mediation Centre but the mediation failed which is evident from the report dated, 26.09.2025 of the learned Mediator submitted in Special Mediation Proceeding No. 386 of 2025.



10. When the matter was finally heard on 22.07.2026, despite repeated calls, none appeared on behalf of Opposite Party No. 2 to contest the case, although the learned counsel for Opposite Party No. 2 had already entered appearance by filing a Vakalatnama, as is evident from the office report dated 26.03.2025.

11. Learned Additional Public Prosecutor appearing on behalf of the State submits that from perusal of the complaint application as well as the statement of complainant on oath and deposition of inquiry witnesses in course of inquiry of the case, a *prima facie* case is made out against the petitioners for having committed torture and cruelty on the complainant for non-fulfillment of dowry demand. He also submits that the learned trial Court has properly passed an order of cognizance after going through the materials available on record and as such, the petitioners may be relegated to face the trial in order to do justice to the complainant.

12. Heard learned counsel for the petitioners as well as learned Additional Public Prosecutor for the State and perused the documents and statements brought on record.

13. By filing this application, the petitioners have assailed the order dated 26.06.2015 of cognizance passed by the learned



Judicial Magistrate 1st Class, Saran at Chapra, chiefly on the ground of territorial jurisdiction, as the Court taking cognizance, has no territorial jurisdiction to take cognizance of the offence which has not taken place within its territorial jurisdiction. Besides this, no other ground has been canvassed on behalf of the petitioners. Main arguments of the petitioners revolve around the factum of trial Court taking cognizance of the offences lacks territorial jurisdiction, hence, the order impugned is bad in law.

14. At this stage, the territorial jurisdiction to try the offences as stipulated under Chapter XIII of the Cr.P.C, assumes significance in order to properly appreciate the case at hand and to decide the same. Section 177 of Cr.P.C., states :

*“177. **Ordinary place of inquiry and trial.** - Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.”*

Section 178 of Cr.P.C., specifies the place of inquiry or trial in the following words :

*“178. **Place of inquiry or trial.** -(a) When it is uncertain in which of several local areas an offence was committed, or
(b) where an offence is committed partly in one local area and partly in another,
(c) where an offence is a continuing one, and continues to be committed in more local areas than one, or
(d) where it consists of several acts done in different local areas,*



it may be inquired into or tried by a Court having jurisdiction over any of such local areas”

Section 179 Cr.P.C., lays down :

“179. Offence triable where act is done or consequence ensues.- *When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.*

15. Thus, it appears from perusal of the aforesaid provision of law that Section 178 creates an exception to the ordinary rule en-grafted in Section 177 by permitting the Courts in another local area where the offence is partly committed to take cognizance under Section 179 Cr.P.C., if by reason of the consequences emanating from a criminal act, an offence is occasioned in another jurisdiction, the Court in that jurisdiction would also be competent to take cognizance. Thus, if an offence is committed partly in one place and partly in another ; or if the offence is a continuing offence, or where the consequences of a criminal act result in an offence being committed at another place, the exception to the ‘ordinary rule’, would be attracted, and the Courts within whose jurisdiction the criminal act is committed would cease to have exclusive jurisdiction to try the offence.

16. Here the phrase ‘continuing offence’ assumes



importance as this issue is no longer ‘*res integra*’, having been answered by the Hon’ble Supreme Court in the case of ***State of Bihar vs. Deokaran Nenshi*** reported in (1972) 2 SCC 890.

Para 5 of the aforesaid judgment is relevant :-

“5 A continuing offence is one which is susceptible of continuance and is distinguishable from the one which is committed once and for all. It is one of those offences which arises out of a failure to obey or comply with a rule or its requirement and which involves a penalty, the liability for which continues until the rule or its requirement is obeyed or complied with. On every occasion that such disobedience or non-compliance occurs and reoccurs, there is the offence committed. The distinction between the two kinds of offences is between an act or omission which constitutes an offence once and for all and an act or omission which continues, and therefore, constitutes a fresh offence every time or occasion on which it continues. In the case of a continuing offence, there is thus the ingredient of continuance of the offence which is absent in the case of an offence which takes place when an act or omission is committed once and for all.”

17. At this stage, it would be germane to quote Section 498A of IPC:-

“498A. Husband or relative of husband of a woman subjecting her to cruelty.—

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.— For the purpose of this section, “cruelty” means—(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any



person related to her to meet such demand.”

18. This aforesaid Section has been introduced by the Criminal Law (Second Amendment) Act, 1983. Besides this, an amendment has also been made in the provisions of Sections 174 and 176 of Cr.P.C., relating to inquiries by police in a case of death by suicides and inquiries by Magistrate into such cause of death. Section 198A was also inserted in Cr.P.C., with regard to prosecution of the offences under Section 498A and further, by an amendment in the first schedule of the Cr.P.C, the offence under Section 498A was made cognizable and non-bailable. Likewise, an amendment was also made in Section 113A, in the Evidence Act by the aforesaid Criminal Law (Second Amendment) Act, 1983.

19. ‘Cruelty’ which is the crux of the offence under Section 498A IPC is defined in ‘Black’s Law Dictionary’ to mean “the intentional and malicious infliction of mental or physical suffering on a living creature, especially a human; abusive treatment; outrage (abuse, inhuman treatment, indignity)”. Cruelty can be both physical or mental. The impact on the mental health of the wife by overt acts on the part of the husband or his relatives ; mental stress and trauma of being driven away from the matrimonial home and her helplessness to go back to the same home for fear of being ill-treated are aspects



that cannot be ignored while understanding the meaning of the expression “cruelty” appearing in Section 498A of the Indian Penal Code.

20. Whether the offence as stipulated under Section 498A is a continuing offence or not, has been answered by Hon’ble Supreme Court in the case of ***Rupali Devi vs State of Uttar Pradesh and Ors.***, reported in ***(2019) 5 SCC 384*** wherein having considered various judgments of Hon’ble Supreme Court including ***Amarendu Jyoti and Ors. v. State of Chhattisgarh and Ors.*** reported in ***(2014) 12 SCC 362*** been held :-

“16. We, therefore, hold that the courts at the place where the wife takes shelter after leaving or driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, would, dependent on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498-A of the Penal Code.”

21. Now coming to the case at hand, it is very much evident from the plain reading of the complaint that wife was not only tortured, but on account gross ill treatment at the hands of in-laws, when she was sprinkled with K. Oil and was about to set ablaze, she had to flee away in order to save her life and life of a girl child and fearing danger to her life, she stayed with her parents at Vaishali. This aspect of the cruelty cannot be ignored, as the complainant, being the wife, despite all the ill-



treatment at the hands of her in-laws, made every endeavour to stay at her matrimonial home in the District of Saran, but the situation became so unbearable for her that she could not have survived even for a day had she not fled to save her life.

22. In view of this conduct of the accused persons, wife had to stay at her parents' home so the emotional distress or psychological effect on the complainant being wife, is bound to traumatize her even after she leaves the matrimonial home and takes shelter at the parental home. Mental cruelty and traumatic experience are more fatal for the well-being of any person, much less the person being the wife. Such circumstances as discussed above and in view of the consequences of the cruelty committed at the matrimonial home, has squarely been contemplated under Section 179 Cr.P.C and the same will be applicable to the present case, where the Court at Saran has equal jurisdiction to try the offence, including taking cognizance of the same.

23. Thus, in the entire gamut of evidence and factual legal conspectus of discussions made hereinabove, I am of the considered view that the order dated 26.05.2015 passed by the learned Judicial Magistrate 1st Class, Saran at Chapra in T.R. No. 2525/16 (arising out of Complaint Case No. 3735/14) taking



cognizance of the offences against the accused persons (the petitioners herein) does not suffer from any infirmity and thus is proper and just and as such requires no interference.

24. Accordingly, this application is dismissed.

25. The learned Trial Court is hereby directed to proceed with the trial and conclude the same as expeditiously as possible without any unnecessary delay.

26. All pending interlocutory application(s), if any, shall also be deemed to have been disposed of.

27. However, there shall be no order as to costs.

(Rana Vikram Singh, J)

Prakash/-

AFR/NAFR	AFR
CAV DATE	22.07.2026
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