

&IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NOS.586-587 OF 2014
(Arising out of SLP(Crl.) Nos.1943-1944 of 2010)

RASHMI KUMAR.....APPELLANT
VERSUS

STATE OF BIHAR & ANR. ETC.....RESPONDENTS

O R D E R

The informant-petitioner, aggrieved by the order dated 31.07.2009 passed by the High Court in Cr. Misc. No.42212/2006 and Cr. Misc. No.55242/2006 whereby it had quashed the order dated 04.03.2006 taking cognizance under section 341, 323, 498A of the Indian Penal Code (for short the 'IPC') and section 3/4 of the Dowry Prohibition Act, has preferred these special leave petitions.

Leave granted.

On the basis of the report given by the informant, Barauni Chakia P.S. Case No.281/04 dated 13.09.2004 was registered against the husband Ritesh Kumar, brother-in-law Shambhu Nath Sharma and sister-in-law Suchitra Devi. Police after usual investigation submitted charge-sheet against the accused persons under section 341, 323 and 498A IPC and section 3/4 of the Dowry Prohibition Act. The charge-sheet was placed before the Chief Judicial Magistrate, Begusarai for consideration, who took cognizance of the offence under the aforesaid section and transferred the case to another Magistrate for trial.

Informant's husband and the brother-in-law and his wife preferred separate applications before the High Court for quashing the said order. The High Court by the impugned order has quashed the order taking cognizance on the ground that the allegation made is a counter blast to the matrimonial case filed by the husband for dissolution of marriage as also on the ground of lack of territorial jurisdiction of the learned Magistrate at Begusarai, who had taken cognizance of the offence.

After having heard Mr. Pavan Kumar, learned counsel for the appellant, Mr. Nagendra Rai, learned Senior Counsel for the respondents and learned counsel for the State of Bihar, we are of the opinion that the High Court has erred in quashing the order taking cognizance. We have been taken through the allegations made in the First Information Report and the allegations made therein prima facie constitute an offence under section 341, 323 and 498A IPC and section 3/4 of the Dowry Prohibition Act. The High Court, in our opinion, ought not to have entered into the merit of the case and quashed order taking cognizance on the ground that it is counter blast to the matrimonial case filed by the husband for dissolution of marriage.

As regards the issue of territorial jurisdiction, there is specific allegation that the accused made demand of dowry while the informant-wife was living at her parents' place within the jurisdiction of the Magistrate at Begusarai. Thus, the order taking cognizance cannot be held to be beyond the territorial jurisdiction of the learned Magistrate.

We make it clear that we have not expressed any opinion in regard to the truthfulness or otherwise of the allegation made and that shall be subject matter of the trial.

In the result, we allow these appeals, set aside the impugned order passed by the High Court and direct the respondents to appear before the Magistrate within one month to face trial.

.....J
[Chandramauli Kr. Prasad]

.....J
[Pinaki Chandra Ghose]

New Delhi;
March 10, 2014.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl) No(s).1943-1944/2010

(From the judgement and order dated 31/07/2009 in CRL.M. No.55242/2006 and CRL.M. No.42212/2006, of The HIGH COURT OF PATNA)

RASHMI KUMAR Petitioner(s)

VERSUS

STATE OF BIHAR & ANR. Respondent(s)

(With appln(s) for stay and office report)

Date: 10/03/2014 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD
HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE

For Petitioner(s) Mr. Pavan Kumar, Adv.

For Respondent(s) Mr. Nagendra Rai, Sr. Adv.
Mr. Smarhar Singh, Adv.
Mr. Shantanu Sagar, Adv.
Mr. Gopi Raman, Adv.
Ms. Prerna Singh, Adv.
For Mr. T. Mahipal, Adv.

Mr. Chandan Kumar, Adv.
For Mr. Gopal Singh, Adv.

Mr. Chandra Prakash, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.
These appeals are allowed in terms of the signed order.

(Sanjay Kumar) Court Master
(Indu Satiya)
Assistant Registrar
(Signed order is placed on the file)