IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15809 of 2011

Arising Out of PS.Case No. -0 Year- 0 Thana -0 District- DARBHANGA

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1. Vishnu Mohan Jha son of Nagendra Jha
2. Nagendra Jha son of Tarakant Jha

Both are resident of village-Hanuman Nagar, P.S.-Pandaul, District -Madhubani, presnetly petitioner no.1 resides at Flat No. 518, Phase-4 (Amrit Apartment), Somajugunda, Hyderabad

.... Petitioner/s

Versus

1. The State of Bihar
2. Babita Chaudhary @ Baby, ex-wife of Vishnu Mohan Jha, daughter of Shailendra Kumar Choudhary @ Phul Babu, presently resident of village-Nehara, P.S.-Manigachhi, District-Darbhanga

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Sameer Ranjan, Advocate
For the Opposite Party/s : Mr. Rajiv Roy, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 21-11-2017

In the present application preferred under Section 482 of the Code of Criminal Procedure (for short 'the Cr.P.C.'), the petitioners have challenged the order dated 15.03.2011 passed by the learned Judicial Magistrate, 1st Class, Darbhanga in C.R. No. 810 of 2010 corresponding to T.R. No.2925 of 2011 whereby and whereunder the petitioners have been summoned to face trial for the offences punishable under Sections 406 and 498A read with Section 34 of the Indian Penal Code (for short 'the I.P.C.').

2. Initially the opposite party no.2 had filed a complaint on

07.11.2009, vide C.R. No.1846 of 2009, in the court of Chief Judicial Magistrate, Darbhanga under Sections 420 and 406 of the I.P.C. against the petitioners. The said complaint was referred to the police under Section 156(3) of the Cr.P.C. for investigation pursuant to which Manigachhi P.S. Case No.211 of 2009 was instituted on 13.11.2009 and investigation was taken up.

3. It is stated in the complaint made by the opposite party no.2 that she was married to petitioner no.1 At the time of marriage a bank draft of rupees seven lacs and cash amount of rupees three lacs were given to Nagendra Jha and, apart from the aforesaid amount, she was also given gold, silver ornaments, silver utensils and clothes etc. After a few days of Duragman, she went to Hyderabad where her husband Vishnu Mohan Jha was employed. She took her gold and silver ornaments and entrusted utensils and furniture to her in-laws. Her husband kept her at Hyderabad for few months. During her stay at Hyderabad, she was being physically and mentally tortured in various ways. She was never given status as a wife. Subsequently, the accused persons in consultation with each other, brought her to her parents' place in April, 2004. While she was coming back to her parents' home, she was advised by her husband not to take her ornaments and clothes raising apprehension that valuables may be stolen or looted there. Believing the words of her husband, she left behind her

ornaments and clothes at her husband's home at Hyderabad. After April 2004, her husband left taking interest in her. Later on, she learnt that he had obtained ex-parte order of divorce at Hyderabad and, thereafter, he had married another lady. When her father and others failed to persuade her husband to keep the complainant with him, they requested to return her ornaments etc., but he did not do so. Her father again went to her husband's place on 20.10.2009 and requested him to return back the ornaments, but he did not pay any heed. When parents of her husband were requested in this regard, they also refused to return the articles.

4. On completion of investigation, the police submitted their report under Section 173(2) of the Cr.P.C. in the Court of Chief Judicial Magistrate, Darbhanga, vide final report No 37 of 2010, dated 28.02.2010, holding therein that the dispute was civil in nature and the petitioners were not sent up for trial.

5. It would be pertinent to note here that during pendency of the investigation of Manigachi P.S. Case No 211 of 2009, the Opposite Party No.2 had filed a petition on 25.02.2010 in the nature of protest in the Court of Chief Judicial Magistrate, Darbhanga.

6. Having received the police report in Manigachi P.S. Case No 211 of 2009, the learned Chief Judicial Magistrate, Darbhanga, after perusal of the materials on record, came to the conclusion that

there was no material to take cognizance against the accused persons. He, thus, accepted the police report, vide order dated 06.05.2010. However, while accepting the police report, he directed to register the petition filed in the nature of protest as a complaint and made over the same to the Court of Judicial Magistrate, 1st Class, Darbhanga. Accordingly, the protest petition was registered as a complaint case and was numbered as C.R. No. 810 of 2010.

7. The complainant was examined on solemn affirmation. Apart from the complainant, four witnesses were also examined in course of enquiry conducted under Section 202 of the Cr.P.C. In the protest petition, no allegation other than what was alleged in the police case was mentioned. Even in her statement recorded on solemn affirmation, she alleged the same thing. She stated that she was dropped in her Maike in April, 2004 and since then her husband did not take any care of her.

8. Having recorded the statement of the complainant on solemn affirmation and, having examined the witnesses in course of enquiry, the learned Judicial Magistrate,1st Class, Darbhanga, vide impugned order dated 15.03.2011, summoned the petitioners to face trial for the offences punishable under Sections 406 and 498A of the I.P.C.

9. Assailing the aforesaid order dated 15.03.2011, Mr.

Sameer Ranjan, learned counsel for the petitioners submitted that the marriage of petitioner no 1 with the complainant was an arranged one and was solemnized on 20.11.2003. In the month of December, she went to Hyderabad, but during that period, her behaviour was quite abnormal. She fired the old servant, who was serving the petitioner no.1 for about eight years and during her stay at Hyderabad she changed three maid servant one by one and did not allow the petitioner no.1 to talk with them. If the petitioner no.1 dared to give any order to maid servant, she abused him saying that he was having relationship with her. He submitted that she used to visit at Taj Krishna Hotel where the petitioner no.1 was employed and even there she abused him on finding him talking with any female employee in hotel or guest and also used to cry in the night without any rhyme or reason and if petitioner no. 1 requested her to consult a doctor, she used to refuse and in the month of March 2004, she instigated the petitioner no.1 to take her to Kolkata and when petitioner no.1 booked return railway ticket to accompany the informant to Hyderabad, she refused to return and the petitioner no.1 returned alone, but kept in touch with the complainant by telephone, but in the month of May, 2004, she abused petitioner no.1 and asked him not to call demanding divorce. The petitioner no. 2 also approached the father of the complainant through his younger brother

in presence of several persons, but the complainant refused to live with petitioner no.1. He submitted that thereafter petitioner no.1 was compelled to file petition under Section 13(1)(1-a) and (1-b) of the Hindu Marriage Act for dissolving the marriage dated 20.11.2003 with the complainant in the Court of Principal Judge, Family Court at Hyderabad. Even after valid service of notice, the complainant failed to appear in the aforesaid case. Thus, the family Court at Hyderabad, vide order dated 10.03.2008, passed an ex parte order in favour of petitioner no 1 and dissolved the marriage dated 20.11.2003 of the petitioner and the complainant. He submitted that the complainant filed an interlocutory application, vide I.A. No 593 of 2008, on 12.05.2008, under Order 9 Rule 13 of C.P.C., to set aside the ex parte decree of divorce besides other prayers. However, the said petition was also dismissed, vide order dated 17.02.2009. He submitted that institution of the present complaint five years after the complainant left her matrimonial home is a gross abuse of process of the Court. He contended that even otherwise the complainant has alleged that she was subjected to cruelty by the petitioner no.1 at Hyderabad and no part of cause of action arose within the territorial jurisdiction of Darbhanga. Hence, the Court at Darbhanga lacks territorial jurisdiction to take cognizance of the offences and summon the petitioners for trial. He submitted that the order taking cognizance is

also bad because the complaint was filed after relationship of petitioner no.1 as husband of the complainant stood terminated by the decree of divorce granted by a Court of competent jurisdiction.

10. Per contra, Mr Rajiv Roy, the learned counsel for the complainant, submitted that the complainant is an unfortunate lady, who was married to petitioner no.1 in 2003 and was deserted by him soon after marriage in 2004. He submitted that notice was never ever served to the complainant in the divorce case and an ex parte order was granted in favour of petitioner no.1. He submitted that as the offence is continuing one, the Court at Darbhanga had territorial jurisdiction to entertain the petition and take cognizance of the offences alleged. He further contended that simply because a decree of divorcé has been granted in favour of petitioner no.1, the petitioners cannot be absolved from being prosecuted under Section 498A of the I.P.C., for the alleged act of cruelty, which was committed during subsistence of marriage.

11. I have heard learned counsel for the parties and carefully perused the records.

12. It is not disputed that initially a complaint was filed which was referred to the police for investigation pursuant to which an FIR was instituted and, on completion of investigation, the police found the accusation against the petitioners to be false and submitted

final report holding the case to be of civil nature. The final police report was also accepted by the learned Chief Judicial Magistrate. It is also not disputed that the initial complaint by opposite party no.2, which was referred to the police for investigation was filed on 18.11.2009 whereas the Family Court at Hyderabad had dissolved the marriage of Opposite Party no 2 with petitioner no.1, vide decree dated 10th March, 2008. Thus, the complaint in question was filed more than one year after the decree of divorce was granted in favour of petitioner no.1. It would also be evident from perusal of the allegations made by the complainant that the entire act of cruelty took place at Hyderabad and no part of cause of action had arisen at Darbhanga.

13. At this stage, it would be relevant to take note of Sections 177, 178 and 179 of Cr.P.C., which read as under:

> **"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.***
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> **178. Place of inquiry or trial.-** ***(a) When it is uncertain in which of several local areas an offence was committed, or***
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> ***(b) where an offence is committed partly in one local area and partly in another, or***
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> ***(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.

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."***

14. A cursory look of the aforesaid provisions make it clear that every offence is ordinarily required to be enquired into and tried by a Court within whose local jurisdiction, it was committed. However, certain exceptions have been carved out. Where an offence is a continuing one, and continues to be committed in more local areas than one it may be enquired into or tried by a Court having jurisdiction over any of such local areas. Further, a person accused of commission of any offence is triable by a Court within whose local limits, the acts amounting to offence was committed or consequence of that act ensued. In the complaint petition, it is stated that marriage of the complainant had taken place at her Maike situated in the district

of Darbhanga. Thereafter, she was taken to her matrimonial home at village- Hanuman Nagar, P.S.-Pandaul, District- Madhubani and from there she was taken to Hyderabad where her husband was employed. The entire allegation of retaining her properties or subjecting her to cruelty has been alleged to have taken place either at village Pandaul, District- Madhubani in the State of Bihar or at Hyderabad in the State of Andhra Pradesh. There is no allegation in the complaint that she was ever subjected to cruelty at her parental home at village- Nehra in the district of Darbhanga.

15. Now, considering the allegations made in the complaint, it is to be seen as to whether the offence alleged is continuing one and the cause of action ever arose within the territorial jurisdiction of Judicial Magistrate, 1st Class, Darbhanga in the light of Sections 178 and 179 of the Cr.P.C.

16. In the **State of Bihar vs. Deokaran Nenshi and Another** since reported in (**1972) 2 SCC 890**, the Supreme Court observed that 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 or reoccurs, there is the offence committed. The distinction between the two kinds of offences is between an act or omission which continues 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. In **Y. Abraham Ajith and Others vs. Inspector of Police, Chennai and Another** since reported in **(2004) 8 SCC 100,** the Supreme Court observed:-

> **"13. While in civil cases, normally the expression "cause of action" is used, in criminal cases as stated in Section 177 of the Code, reference is to the local jurisdiction where the offence is committed. These variations in etymological expression do not really make the position different. The expression "cause of action" is, therefore, not a stranger to criminal cases.**
>
> **14. It is settled law that cause of action consists of bundle of facts, which give cause to enforce the legal inquiry for redress in a court of law. In other words, it is a bundle**

of facts, which taken with the law applicable to them, gives the allegedly affected party a right to claim relief against the opponent. It must include some act done by the latter since in the absence of such an act no cause of action would possibly accrue or would arise.

15. The expression "cause of action" has acquired a judicially settled meaning. In the restricted sense cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In the wider sense, it means the necessary conditions for the maintenance of the proceeding including not only the alleged infraction, but also the infraction coupled with the right itself. Compendiously, the expression means every fact, which it would be necessary for the complainant to prove, if traversed, in order to support his right or grievance to the judgment of the Court. Every fact, which is necessary to be proved, as distinguished from every piece of evidence, which is necessary to prove such fact, comprises in "cause of action".

16. The expression "cause of action" has sometimes been employed to convey the restricted idea of facts or circumstances

which constitute either the infringement or the basis of a right and no more. In a wider and more comprehensive sense, it has been used to denote the whole bundle of material facts.

17. The expression "cause of action" is generally understood to mean a situation or state of facts that entitles a party to maintain an action in a court or a tribunal; a group of operative facts giving rise to one or more bases for sitting; a factual situation that entitles one person to obtain a remedy in court from another person. In Black's Law Dictionary a "cause of action" is stated to be the entire set of facts that gives rise to an enforceable claim; the phrase comprises every fact, which, if traversed, the plaintiff must prove in order to obtain judgment. In Words and Phrases (4th Edn.) the meaning attributed to the phrase "cause of action" in common legal parlance is existence of those facts, which give a party a right to judicial interference on his behalf.

18. In Halsbury Laws of England (Fourth Edition) it has been stated as follows:

" 'Cause of action' has been defined as meaning simply a factual situation the existence of which entitles one person to

obtain from the Court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. 'Cause of action' has also been taken to mean that particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject matter of grievance founding the action, not merely the technical cause of action".

18. The Court also observed as under:-

"11. A similar plea relating to continuance of the offence was examined by this Court in Sujata Mukherjee v. Prashant Kumar Mukherjee (1997)5 SCC-30. There the allegations related to commission of alleged offences punishable under Section 498A, 506 and 323 IPC. On the factual background, it was noted that though the dowry demands were made earlier, the husband of the complainant went to the place where the complainant was residing and had assaulted her. This Court held in that factual background that clause (c) of Section 178 was attracted. But in the present case the factual position is different and the complainant herself left the house of the husband on

> **15.4.1997 on account of alleged dowry demands by the husband and his relations. There is thereafter not even a whisper of allegations about any demand of dowry or commission of any act constituting an offence much less at Chennai. That being so, the logic of Section 178 (c) of the Code relating to continuance of the offences cannot be applied."**

19. The Supreme Court in **Y. Abraham Ajith and Others** (supra) further held as under:-

> **"19. When the aforesaid legal principles are applied, to the factual scenario disclosed by the complainant in the complaint petition, the inevitable conclusion is that no part of cause of action arose in Chennai and, therefore, the concerned magistrate had no jurisdiction to deal with the matter. The proceedings are quashed. The complaint be returned to respondent No.2 who, if she so chooses, may file the same in the appropriate Court to be dealt with in accordance with law. The appeal is accordingly allowed."**

20. In the case of **Manish Ratan and Others vs. State of M.P. and Another** since reported in **(2007) 1 SCC 262**, the Supreme Court held that offence under Section 498A of I.P.C. cannot be held to

be a continuing one only because the complainant was forced to live with her matrimonial home. It allowed appeal against the order passed by the M.P. High Court in criminal revision petition whereby the revision petition questioning the jurisdiction of the Court of C.J.M., Datia on the touchstone of Sections 177 and 178 was dismissed.

21. In **Ramesh and others vs. State of T.N.** since reported in **(2005) 3 SCC 507**, the Supreme Court transferring the original case under Sections 498A and 406 from trichy to Chennai observed:

> **11. In the view we are taking, it is not necessary for us to delve into the question of territorial jurisdiction of the Court at Trichy in detail. Suffice it to say that on looking at the complaint at its face value, the offences alleged cannot be said to have been committed wholly or partly within the local jurisdiction of the Magistrate's Court at Trichy. Prima facie, none of the ingredients constituting the offence can be said to have occurred within the local jurisdiction of that Court. Almost all the allegations pertain to acts of cruelty for the purpose of extracting additional property as dowry while she was in the matrimonial home at Mumbai and the alleged acts of misappropriation of her movable property at Mumbai, However, there is one allegation relevant to Section 498-A from**

which it could be inferred that one of the acts giving rise to the offence under the said Section had taken place in Chennai. It is alleged that when the relations of the informant met her in-laws at a hotel in Chennai where they were staying on 13.10.1998, there was again a demand for dowry and a threat to torture her in case she was sent back to Mumbai without the money and articles demanded.

12. Thus the alleged acts which according to the petitioner constitute the offences under Section 498-A and 406 were done by the accused mostly in Mumbai and partly in Chennai. Prima facie, there is nothing in the entire complaint which goes to show that any acts constituting the alleged offences were at all committed at Trichy."

22. In **Bhura Ram and Others vs. State of Rajasthan and Another** since reported in **(2008)11 SCC 103** the case of the complainant was that she left the place where she was residing with her husband and in-laws and came to the city of Sri Ganganagar, Rajasthan and all the alleged acts, as per the complaint, had taken place in the State of Punjab. The complainant lodged a complaint before the learned Chief Judicial Magistrate, Sri Ganganagar against the appellants. The complaint was sent to the police under Section

156(3) of Cr.P.C. pursuant to which FIR was registered against the appellants for the offences under Sections 498A, 406 and 147 of I.P.C. and the charge-sheet was filed in the court of Additional Chief Judicial Magistrate, Sri Ganganagar. The learned Additional Chief Judicial Magistrate framed charges against the appellants for the offences under Sections 498A and 406 of the I.P.C. The appellants made a prayer before the court that the court of the Additional Chief Judicial Magistrate had no jurisdiction to try the offences as cause of action accrued within the jurisdiction of other court. The application was rejected. The revision petition before the learned Session Judge, Sri Ganganagar was also rejected. The High Court also dismissed the application filed before it against the revisional order. However, the appeal against the order passed by the High Court succeeded before the Supreme Court. The Supreme Court held that since all the alleged acts, as per the complaint, had taken place in the State of Punjab and, therefore, the Court of Sri Ganganagar did not have any jurisdiction to deal with matter and consequently quashed the proceeding pending before the court of Additional Chief Judicial Magistrate, Sri Ganganagar.

23. In **Amarendu Jyoti and Others vs. State of Chhattisgarh and Others** since reported in **(2014) 12 SCC 362**, the appellants had challenged the order passed by the High Court of

Chhatisgarh dismissing the application filed under Section 482 of the Cr.P.C. holding that the FIR for the offence under Section 498A of the I.P.C. was liable to be tried by the court at Ambikapur which had jurisdiction to try the offence. The main contention of the appellants was that the incident of cruelty alleged by the complainant had taken place only at Delhi, where the couple resided after which the complainant went to stay with her parents at Ambikapur in the State of Chhatisgarh. Therefore, the Court at Ambikapur had no jurisdiction to try the offence where no incident was alleged to have taken place. This argument did not find favour with the High Court, which dismissed the application filed under Section 482 of the Cr.P.C. The High Court held that after the complainant had left the appellant's society at Delhi and gone to Ambikarpur to reside with her father, the acts of cruelty continued and, therefore, the offence of cruelty was a continuing offence. Aggrieved by the rejection of the application by the High Court, an appeal was preferred before the Supreme Court. The main contention on behalf of the appellants was that the FIR did not disclose the continuing offence. While examining the question whether the allegations made in the FIR constituted continuing offence, the Supreme Court observed:-

> **"9. We find from the FIR that all the incidents alleged by the complainant in respect of the alleged cruelty are said to**

have occurred in Delhi. The cruel and humiliating words spoken to the second respondent, wife by her husband, elder brother-in-law and elder sister-in-law for bringing less dowry are said to have been uttered at Delhi. Allegedly, arbitrary demands of lakhs of rupees in dowry have been made in Delhi. The incident of beating and dragging Respondent 2 and abusing her in filthy language also are said to have taken place at Delhi. Suffice it to say that all overt acts, which are said to have constituted cruelty have allegedly taken place at Delhi.

10. The allegation as to what has happened at Ambikapur are as follows:

"No purposeful information has been received from the in-laws of Kiran even on contacting on telephone till today. They have been threatened and abused and two years have been elapsed and the in-laws have not shown any interest to call her to her matrimonial home and since then Kiran is making her both ends meet in her parental home. To get rid of the ill-treatment and harassment of the in-laws of Kiran, the complainant is praying for registration of an FIR and request for immediate legal action so that Kiran may

> **get appropriate Justice."**
>
> **11. We find that the offence of cruelty cannot be said to be a continuing one as contemplated by Sections 178 and 179 of the Code. We do not agree with the High Court that in this case the mental cruelty inflicted upon Respondent 2 "continued unabated" on account of no effort having been made by the appellants to take her back to her matrimonial home, and the threats given by the appellants over the telephone. It might be noted incidentally that the High Court does not make reference to any particular piece of evidence regarding the threats said to have been given by the appellants over the telephone. Thus, going by the complaint, we are of the view that it cannot be held that the Court at Ambikapur has jurisdiction to try the offence since the appropriate Court at Delhi would have jurisdiction to try the said offence. Accordingly, the appeal is allowed."**

24. In view of the ratio laid down by the Supreme Court in the decisions noted above, it would be manifest that the offence of cruelty cannot be said to be a continuing one as contemplated under Sections 178 and 179 of the I.P.C., if no part of cause of action has

occurred in that city.

25. As noted above, on perusal of the complaint and the materials on record, there is no dispute that all the alleged acts of cruelty upon the complainant had taken place at Hyderabad in the State of Andhra Pradesh and the alleged acts of retaining the property of the complainant had also taken place either at Hyderabad in the State of Andhra Pradesh or at her matrimonial home at Pandaul in the district of Madhubani and, no part of cause of action, ever took place within the territorial jurisdiction of the Court at Darbhanga in the State of Bihar.

26. In view of the discussions made, hereinabove, as also the ratio laid down by the Supreme Court in **State of Bihar vs. Deokaran Nenshi and Another** (supra), **Y. Abraham Ajith and Others vs. Inspector of Police, Chennai and Another** (supra), **Ramesh and others vs. State of T.N** (supra), **Bhura Ram and Others** (supra) and **Amarendu Jyoti and Others vs. State of Chhattisgarh and Others** (supra), I am of the considered opinion that on the facts and in the circumstances of the case, there would be no applicability of the provisions prescribed under Section 178(c) or Section 179 of Cr.P.C. in the present case. I also find substance in the submissions made by the learned counsel for the petitioners that once the relationship of the complainant stood terminated by decree of

divorce granted by a competent Civil Court way back in 10.03.2008, there could not have been any complaint in the year 2009 against the petitioners for the offence punishable under Section 498A of the I.P.C. as the offence punishable under Section 498A of the I.P.C. prescribes that the husband or relative of the husband of a women subjecting her to cruelty can only be prosecuted. Since the relationship of the complainant itself had been terminated with the petitioners much before the date of filing of the complaint, no prosecution could have launched by the complainant against the petitioners.

27. I am also of the opinion that in view of the bar to take cognizance after lapse of period of limitation as provided under Section 468 of Cr. P.C., the impugned order taking cognizance cannot be sustained. Section 468(2)(c) of the Cr.P.C. mandates that no Court shall take cognizance of an offence after expiry of three years from the date of cause of action, if the offence is punishable with imprisonment for a term not exceeding three years. The offence punishable under Section 498A of the I.P.C. prescribes punishment with imprisonment for a term which may extend to three years. Similarly Section 406 of the I.P.C. prescribes punishment for a term, which may extend to three years, or with fine, or with both. Since the alleged act of cruelty took place on or before April, 2004 and this

Court has already held that the offence is not continuing one, the period of limitation for taking cognizance of offences under Sections 406 and 498A of the I.P.C. expired in April, 2007, but the initial complaint, which was referred to the police for investigation was filed on 13.11.2009 and, the instant complaint was registered only after the final report in the police case was accepted by the Court of Magistrate on 06.05.2010. Thus, the order taking cognizance of the offence and summoning the petitioners to face trial cannot be sustained in law.

28. Resultantly, the impugned order dated 15.03.2011 passed by the learned Judicial Magistrate,1st Class, Darbhanga, in C.R. No. 810 of 2010 and the entire criminal proceeding arising therefrom, are, hereby, quashed.

(Ashwani Kumar Singh, J)

Md.S./-

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