

Bijan Nath Vs. Basabi Nath

Bijan Nath Vs. Basabi Nath

SooperKanoon Citation : sooperkanoon.com/895970

Court : Guwahati

Decided On : Apr-03-2001

Reported in : 2001CriLJ4149,II(2001)DMC623

Judge : P.G. Agarwal, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 174, 182(2), 184 and 494;; [Indian Penal Code \(IPC\), 1860](#) - Sections 10(B), 34, 120B, 494, 495, 496, 497 and 498A;; Dowry Prohibition Act - Section 4

Appeal No. : Criminal Revision No. 502 of 1998

Appellant : Bijan Nath

Respondent : Basabi Nath

Disposition : Revision petition dismissed

Judgement :

1. None has appeared for the parties. Perused the records.
2. On a complaint filed by Smt. Basabi Nath, alleging commission of offence under Sections 498A, 494, 496/34 IPC and under Section 4 of the Dowry Prohibition Act, a complaint case being CR No. 2618C/98 was registered. Vide the order dated 1.9.1998 the learned Magistrate took cognizance of the offence and issued process against the accused person. This is an application for quashing of the said

complaint.

3. The case of the complainant is that she was married with the petitioner accused person on 8.5.1997 and thereafter lived as husband and wife for sometime but the marital bliss was shattered by the constant demand for dowry by the petitioner-husband and for the failure to meet the demand the respondent-wife was tortured. During the subsistence of the marriage the accused husband pursuant to a criminal conspiracy contacted a second marriage. On examination of the complaint the trial court took cognizance of the offence against the accused persons under Sections 498A, 494, 497 and 10(B) IPC. Hence the present application.

4. Quashing of the complaint petition has been sought mainly on the ground that the court at Guwahati had no jurisdiction to take cognizance of the offence in view of the provisions contained in Section 174 Cr.P.C. Admittedly the marriage was solemnized in the district of Cachar and the parties lived together as husband and wife at Silchar. The alleged cruelty was committed to the wife during her stay at Silchar. It is however stated that the accused persons with the help of his family members entered into a criminal conspiracy and pursuant to that contacted a second marriage and when the complainant came to know about it she had no other alternative but to leave for her parents place and she was brought back from Silchar and as such she had taken up her permanent residence at Guwahati. Sub-section (2) of Section 182 Cr.P.C. reads as follows :

'182. Offence committed by letters, etc.- (1) Any offence which includes cheating may, if the deception is practiced by means of letters or telecommunication messages, be inquired into or tried by any Court within whose local jurisdiction such letters or messages were sent or were received ; and any offence of cheating and dishonestly inducing delivery of property may be inquired into or tried by a Court within whose local jurisdiction the property was delivered by the person deceived or was received by the accused person.

(2) Any offence punishable under Section 494 or Section 495 of the Indian Penal Code, may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the offender last resided with his or her spouse by the first marriage (or the wife by the first marriage has taken up permanent residence

after the commission of the offence).'

5. The above provision was incorporated by the 1979 Amendment and it clearly provides that in case of a complaint under Section 494 Cr.P.C. the same may be tried at the place where the wife has taken up permanent residence after the commission of the offence. In this case the process under Section 494 Cr.P.C. was issued for the alleged second marriage of the husband and complainant claims that she has taken up her permanent residence in the jurisdiction of the Gauhati Court and as such the Gauhati Court had jurisdiction to take cognizance of the offence. It is however stated that only the husband is liable for the offence under Section 494 Cr.P.C. but so far the other accused are concerned the offence had occurred at Silchar and as such the Guahati Court had no jurisdiction to entertain the complaint. There is an allegation of commission of offence under Section 120B read with Section 494 IPC against all the accused persons and in view of the provisions contained in Section 184 Cr.P.C. I find that the Court at Gauhati had jurisdiction to entertain the complaint.

6. In the result, I find no merit in this revision petition and accordingly the revision petition is dismissed. Interim order, if any, stands vacated. Send down the records. Learned Chief Judicial Magistrate may proceed with the trial.