

**IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE :
SONITPUR AT TEZPUR**

PRESENT : Smt. M.R. Sharma,
Additional Sessions Judge,
Sonitpur, Tezpur.

CRIMINAL REVISION NO. 75 (S-4) OF 2012

[Revision against the order dated 06-10-2012 passed by
Sri K.K. Pathak, Judicial Magistrate, 1st class, Tezpur, Sonitpur
in connection with CR Case No. 459 of 2012]

Smt. Seema Sah
Wife of Late Ranjit Sah
Resident of Ward No. 3,
P.S. -Dhekiajuli
Dist - Sonitpur, Assam. **Petitioner**

-VERSUS-

1. Sri Satrughan Sah & 2 ors
2. The State of Assam **Opp. Parties**

A P P E A R A N C E

For the petitioner : Sri S. Nath, Advocate

For the Opposite Party : Sri H. Serai,
Addl. Public Prosecutor

Date of Argument : 16-01-2013

Date of Judgment : 04-02-2013

M. R. Sharma
1-2-13
Additional Judge
Sonitpur, Tezpur

J U D G M E N T

This Criminal Revision has been filed Under Section 397 / 399, Cr.P.C. against the order 06-10-2012 passed by Sri K.K. Pathak, Judicial Magistrate, 1st class, Tezpur, Sonitpur in connection with CR Case No. 459 of 2012, dismissing the case having no territorial jurisdiction.

2. The fact of the case of the revision petitioner is that on 04-10-2012, the petitioner-complainant filed on complaint before the learned Chief Judicial Magistrate, Sonitpur, Tezpur which was registered as C.R. Case No. 459 of 2012 u/s 498-A / 384 / 406 / 34 IPC r/w Section 93 of the Cr.P.C. against the opposite parties, namely, 1. Sri Satrugan Sah, 2. Smt. Bimli Devi and Sri Ajit Sah, to issue search warrant in the resident of the above named Opposite Parties thereby to seize stridhan property and give zimma to the petitioner-complainant.

The learned Chief Judicial Magistrate, Sonitpur, Tezpur, after registering the case transferred to the Court of Sri K.K. Pahak, learned Judicial Magistrate, 1st class, Tezpur for trial and disposal of the case. On the dated fixed, i.e. on 06-10-2012, the learned trial Court examined the petitioner-complainant and one witness out of 3 witnesses and the learned Trial Court dismissed the said C.R. Case No. 459 of 2012 on the ground of having no territorial jurisdiction.

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3. Being highly aggrieved and dissatisfied with the impugned Order, dated 06-10-2012, passed by the learned Judicial Magistrate, 1st class, Tezpur, the petitioner has preferred this present revision mainly on the following grounds:

i) That the impugned order of the learned trial Magistrate is bad in law and liable to be set aside;

ii) That the impugned order of the learned trial Court is not sustainable in law and so it has to be set aside ;

iii) That the learned trial Court has failed to consider the application of the petitioner according to law because the learned Judicial Magistrate only taking the statement of the complainant-petitioner and examined only one witness out of three witnesses and disposed of the case which is erred in law;

iv) That it is clear that the marriage of the complainant-petitioner was solemnized at Dhekiajuli at her parents' house and she filed the complain case against all the accused persons at Tezpur, which falls under the jurisdiction of the Hon'ble Court;

v) that if the impugned order of the learned Court will not be set aside by the Hon'ble

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Tezpur

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Court, then it will cause irreparable loss to the petitioner;

4. I have heard the learned counsel for the revision petitioner and also the learned Additional Public Prosecutor.

5. The order of the learned Judicial Magistrate dated 06-10-2012 shows that he has relied upon 2006 (1) GLT 214 in Parashmoni Gore Vs. Parinita Shyam Konwar where the Hon'ble Gauhati High Court has decided the matter of Territorial Jurisdiction. Copy of the FIR and the evidence recorded by the learned Judicial Magistrate u/s 200 and u/s 202 Cr.P.C. shows that complainant Seema Sah has stated that she was staying at her house in Karbi Anglong District in the residence of her husband and the witness Birendra Sah has stated that the complainant was his cousin sister and she was tortured in front of his eyes at her late husband Ranjit Sah's house at Karbi Anglong. The jurisdiction for filing the criminal case under provisions of any section of the Indian Penal Code requires the place where the incident had taken place is the proper place where the case should be filed. Chapter II of the Code of Criminal Procedure defines the classes of criminal Courts and also the Section 7 defines the Territorial divisions and such Territorial division is defined by every State in consultation with the High Court. As regards Section 125 Cr.P.C. under Chapter IX which provides for maintenance to be obtained by a wife from her husband, the jurisdiction for filing a case is defined in Section 126. The proceeding u/s 125 Cr.P.C. may be taken against any person in any

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district where either the husband resides or where the wife resides or the husband last resided with his wife. The same jurisdiction is not available to any complaint u/s 498 (A) IPC. Hence, the trial Court was justified in passing the order dated 06-10-2012 with the finding that no cause of action arose within the jurisdiction of Tezpur Court and the Court, as such, had no Territorial jurisdiction to decide the matter. The learned trial Court had rightly dismissed the complaint case. Accordingly, I find that the order of the learned Judicial Magistrate, Tezpur was not bad in law and is not liable to be set aside. The learned trial Court has not committed any error in law in dismissing the complaint petition being C.R. Case No. 459 of 2012. Accordingly, I find no ground to set aside the order dated 06-10-2012 passed by the learned trial Court.

6. The revision petition cannot be admitted and accordingly dismissed as being not admissible in law.

With the above order, the Revision Petition is disposed of.

M.R. Sharma
4-2-13
(M.R. Sharma)
Additional Sessions Judge
Sonitpur : Tezpur

Dictated and corrected by me
And every page bears my signature.

M.R. Sharma
4-2-13
(M.R. Sharma)
Additional Sessions Judge
Sonitpur : Tezpur

Transcribed and Typed on dictation by me –

I. Goswami
4/2/13
(I. Goswami)
Stenographer