

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 128 OF 2004

Sau.Shobha w/o Mahadeo Gaikwad,
Age : 27 years, Occupation : Household,
R/o C/o Bhausahab Govind Talke,
At Post Kolhar (Bk), Tq.Rahata,
District Ahmednagar.

...PETITIONER
(Orig.Complainant)

-VERSUS-

- 1 Shri Mahadeo Bapurao Gaikwad,
Age : 34 years, Occupation : Agriculture.
- 2 Shri Bapurao Balbhim Gaikwad,
Age : 63 years, Occupation : Agriculture.
- 3 Sau.Chandrakala w/o Bapurao Gaikwad,
Age : 57 years, Occupation : Household.

All R/o Wangi (Kd.), Post Wangi,
Tq.Paranda, District : Osmanabad.

...RESPONDENTS
(Orig.Accused)

...
None for the parties.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 30th June, 2016

Oral Judgment :

- 1 None appeared for the litigating sides on 06.06.2016,
16.06.2016 and even today. However, rather than dismissing the matter

for non prosecution, I have considered the record available and based on the same, I have taken up this matter for disposal.

2 Criminal Miscellaneous Case No.244/2001 was instituted before the learned Judicial Magistrate First Class, Shrirampur by the Petitioner/wife, who is married to Respondent No.1/husband. Respondent Nos.2 and 3 are the parents of Respondent No.1. She has invoked Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code.

3 In her complaint, the Petitioner specifically submits that she has been living with her uncle at village Kolhar (Bk). She was married to the first Respondent at village Wangi (Khurd), Post Wangi (Bk), Taluka Paranda, District Osmanabad. It is also stated that after her marriage, she was constantly ill-treated and was physically and mentally abused for not meeting the demand of Rs.50,000/-, which was to be utilized for the marriage of her husband's sister. Her husband has been addicted to liquor and Respondent No.2 i.e. her father-in-law tried to make sexual advances against her. She, therefore, informed these incidents to her uncle, who has been her caretaker right from her childhood as her parents are untraceable. Her uncle tried to settle the issue, but in vain. Consequentially, she was driven out of the marital home and she had to accompany her uncle and started residing with her uncle at the address

mentioned in the cause title of her complaint.

4 It is also stated in the complaint that on 01.12.2001, the Respondents/ accused reached her home at 11:00 O'clock in the morning and made the demand of Rs.50,000/-. They had brought the stamp paper so as to obtain her signature. Since she denied, the accused started beating her. When her uncle tried to protect her, they beat her uncle as well. Considering these events, she approached the Police Station who refused to record her complaint and informed her that she may approach the Court. It is in these circumstances that the complaint has been filed by the Petitioner.

5 The Petitioner/ Complainant has also recorded her verification and has repeated the events that have occurred. The learned Magistrate by order dated 05.12.2001 issued process against the Respondents/ accused herein under Section 498-A of the Indian Penal Code.

6 The Respondents preferred Criminal Revision Application No.25/2002 before the learned Additional Sessions Judge at Shrirampur. By the impugned judgment dated 07.10.2002, the revision application was allowed and the order of issuance of process dated 05.12.2001 was set

aside and the complaint was quashed. The impugned order of the Revisional Court is based only on the ground that the Complainant after marriage was resident of Osmanabad district and hence, the complaint should have been filed at Paranda taluka or Bhoom taluka in Osmanabad district in the light of Section 179 of the Code of Criminal Procedure.

7 I have considered the impugned judgment and the material on record.

8 Sections 177 to 179 of the Code of Criminal Procedure 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.

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, or
(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. ”

9 Section 177 clearly indicates that an offence shall be registered within whose local jurisdiction it was committed. Section 178 deals with several offences committed at several local areas, which aspect is not applicable to this case. Section 179 pertains to an act to be tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.

10 As such, it is apparent that the Petitioner resides at the address mentioned in the cause title of the complaint. Though she has stated that after her uncle came to her marital home on 24.11.2001 and that she was driven out of marital home on 01.12.2001, the thrust of the complaint in the light of the demand for dowry and physical assault and beating is based on the events that occurred on 01.12.2001 at the address mentioned in the cause title of the complaint.

11 In the light of the above, I do not find that the conclusions drawn by the Revisional Court with regard to the jurisdiction of the Court to try the offence could be said to be sustainable.

12 From the impugned judgment, it does not appear that the Respondents have raised any ground as regards issuance of process. But, they have raised the ground that the matter should have been tried at Bhoom Taluka in Osmanabad district. No other challenge has been posed in the revision petition by the Respondents.

13 In the light of the above, this Criminal Writ Petition succeeds and is, therefore, allowed. The impugned judgment of the learned Additional Sessions Judge, Shrirampur dated 07.10.2002 is quashed and set aside. Miscellaneous Criminal Case No.244/2001 as well as the order dated 05.12.2001 with regard to issuance of process against the Respondents under Section 498-A r/w Section 34 of the Indian Penal Code is restored.

14 Rule is made absolute in the above terms.

15 The record and proceedings in Miscellaneous Criminal Case No.244/2001 shall be returned forthwith to the learned Judicial Magistrate First Class, Shrirampur.