

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 694 of 2006

- State of Chhattisgarh Through : District Magistrate, Raipur (C.G.)

---- Applicant

Versus

- P. Venkat Raman Murty S/o - Shri P. Raja Rao, Aged about - 38 years, Plot No. 12 Natru Bagar, Post Risali, Bhilai, District Durg (C.G.)
- P. Raja Rao S/o Late P. Rajulu, Aged About 63 Years, Plot No. 12 Natru Bagar, Post Risali, Bhilai, District Durg (C.G.)

----Non-applicants/Respondents

For Applicant/State – Shri Adil Minhaj, Govt. Advocate.

For Non-applicants/respondents – Shri Arvind Kumar Dubey, Advocate.
Shri Ratnesh Kumar Agrawal, Advocate for the complainant.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

13-03-2020

Heard.

1. By this revision petition the applicant has challenged the legality, propriety and correctness of the order dated 21-07-2006 passed by the 11th Additional Sessions Judge, FTC, Raipur, C.G., in Criminal Revision No.110/2006, wherein, the revision was allowed and the order of taking cognizance by the learned JMFC dated 28-03-2006 was set aside.
2. The facts of the case are these, that on a FIR lodged by the complainant P. Kavita in Mahila Thana Raipur, the police has investigated the case and charge sheet was filed in the Court of JMFC for prosecution of the respondents/non-applicants under Section 498A, 34 of the IPC and Section 3, 4 of Dowry Prohibition Act. The respondents then filed an application under Section 177 of the Cr.P.C. challenging the jurisdiction of the trial Court which has been dismissed by the order dated 28-03-2006 by the trial Court. This order was challenged in the revision petition and the same has been set aside by the impugned order.

3. It is submitted that the learned revisional Court has passed erroneous order by making detail appreciation of the evidence present in the charge sheet. The provisions under Section 177 of the Cr.P.C. was not correctly quoted, in this case Section 179 of the Cr.P.C. was applicable which provides that when an act is an offence by reason of anything which has been done and a consequence which has ensued, then the offence may inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.

Reliance has been placed on the judgment of Hon'ble the Supreme Court in the matter of **Rupali Devi Vs. State of Uttar Pradesh and others**, (2019) 5 SCC 384. It is submitted that although the incident of cruelty and demand of dowry has taken place in Bhilai, but consequence has ensued within the jurisdiction of Raipur Court as the complainant had to take shelter in her parental house in Raipur, therefore, Raipur Court had all the authority and jurisdiction to try the case. Therefore, the impugned order is erroneous, arbitrary and illegal which is liable to be set aside.

4. Learned counsel for the respondents submits that according to the FIR and the statement given by the witnesses itself, it is clear that all the incident has taken place in Bhilai while the complainant was residing in her matrimonial home, therefore, only for the reason that the complainant has taken shelter in her parental house it does not give her any entitlement to lodge the FIR in Raipur and for the same reason the Court at Raipur does not have any jurisdiction to try the case.

5. Considered on the submissions made and perused the documents filed along with the revision petition. The charge sheet mentions about the incident that has taken place in Bhilai where complainant P. Kavita, wife of respondent No.1 was residing in her matrimonial home. She was demanded dowry, tortured and beaten for the same, because of which she had to leave her

matrimonial home and take shelter in her parental house in Raipur and then the FIR has been lodged in Mahila Thana Raipur.

6. Section 177 of the Cr.P.C. lays down a general rule and Section 179 Cr.P.C. provides for the exceptional cases in which jurisdiction for trial of any case has been extended to the place where consequence ensues.

Hon'ble the Supreme Court in the case of Rupali Devi Vs. State of Uttar Pradesh and others (supra) in paragraph No.15 that:-

15. The Protection of Women from Domestic Violence Act, as the object behind its enactment would indicate, is to provide a civil remedy to victims of domestic violence as against the remedy in criminal law which is what is provided under Section 498A of the Indian Penal Code. The definition of "domestic violence" in the Protection of Women from Domestic Violence Act, 2005 contemplates harm or injuries that endanger the health, safety, life, limb or well-being, whether mental or physical, as well as emotional abuse. The said definition would certainly, for reasons stated above, have a close connection with Explanation (a) & (b) to Section 498-A of the Indian Penal Code which defines "cruelty". The provisions contained in Section 498-A of the Indian Penal Code, undoubtedly, encompass both mental as well as the physical well-being of the wife. Even the silence of the wife may have an underlying element of an emotional distress and mental agony. Her sufferings at the parental home though may be directly attributable to commission of acts of cruelty by the husband at the matrimonial home would, undoubtedly, be the consequences of the acts committed at the matrimonial home. Such consequences, by itself, would amount to distinct offences committed at the parental home where she has taken shelter. The adverse effects on the mental health in the parental home though on account of the acts committed in the matrimonial home would, in our considered view, amount to commission of cruelty within the meaning of Section 498A at the parental home. The consequences of the cruelty committed at the matrimonial home results in repeated offences being committed at the parental home. This is the kind of offences contemplated under Section 179 Cr.P.C which would squarely be applicable to the present case as an answer to the question raised."

7. In view of the express provisions present in the Cr.P.C. and also the principles laid down in Rupali Devi Vs. State of Uttar Pradesh and others (supra) case, there had been no room for interference in the order passed by the trial Court by the revisional Court. Apart from holding that the revisional Court has taken an erroneous approach and ignored the express provisions under Section 179 of the Cr.P.C. and passed illegal order which needs to be interfered with. Therefore, the criminal revision is allowed and the impugned

order is set aside. The prosecution case before the trial Court is restored. The trial Court is directed to conduct the trial in the case in accordance with law. Respondents are directed to give appearance before the trial Court on 27-04-2020.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil