

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRMP No. 1055 of 2014****Order reserved on 02/02/2021****Order delivered on 03/02/2021**

1. Rahul Jain, Aged about 35 years, S/o Shri Prem Chand Jain.
2. Prem Chand Jain (deleted).
3. Smt. Sunita Jain, Aged about 57 years, W/o Rahul Jain.

All R/o M.I.G. 8/5, Geetanali Complex, Police Station Kamla Nagar, Bhopal, Pin 462003, Revenue Tahsil Bhopal, District Bhopal, Madhya Pradesh.

---Petitioners**Versus**

1. State of Chhattisgarh, Through Station House Officer, IN charge Mahila Police Station Durg, 491001, Revenue Tahsil and Distt. Durg, Chhattisgarh.
2. Smt. Smita Jain, Aged about 34 years, W/o Shri Rahul Jain, Arihant Furniture, Azad Market, Risali, Bhilai, Pin 490001, P.S. Newai, Revenue Tahsil & Distt. Durg, Chhattisgarh.

--- Respondents

For Petitioners	:- Mr. V.G. Tamaskar, Advocate
For Respondent 1/State	:- Mr. Animesh Tiwari, Dy. A.G.
For Respondent 2	:- Mrs. Aditi Singhvi, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

C.A.V. Order

1. The instant petition under Section 482 of CrPC is directed against the impugned order dated 23/10/2013 passed by learned Judicial Magistrate First Class, Durg rejecting petitioners' application under Section 177 of CrPC and for quashing the criminal proceeding registered against the petitioners for offence punishable under Sections 498A and 324 read with Section 34 of the IPC and Section 4 of the Dowry Prohibition Act, 1961 on the ground that the offences have been alleged to have been committed at Kamla Nagar Bhopal i.e. at the matrimonial house and the Durg Court has no jurisdiction to entertain the charge-sheet.
2. Mr. V.G. Tamaskar, learned counsel for the petitioners, would submit that all offences alleged to have been committed by the petitioners are at Kamla Nagar Bhopal and the Judicial Magistrate First Class, Durg has no jurisdiction to take cognizance of the aforesaid offences and two applications filed under Section 177 of CrPC have illegally been rejected. Even otherwise, no offence as aforesaid is made out against the

petitioners, as such, entire charge sheet and order passed on the application under Section 177 of the CrPC deserves to be quashed. He would rely upon the judgments of the Supreme Court in the matters of Y. Abraham Ajit and Others Vs. Inspector of Police, Chennai¹ and Preeti Gupta and Another Vs. State or Jharkhand².

3. Mr. Animesh Tiwari, learned State counsel and Mrs. Aditi Singhvi, learned counsel for respondent No. 2/complainant, would support the impugned order and would submit that in view of the decision rendered by the Supreme Court in the matter of Rupali Devi V. State of U.P.³ which has been followed by this Court in the matter of Smt. Preeti Sharma v. State of Chhattisgarh⁴, it cannot be held that only the Court at Bhopal has the jurisdiction for prosecution of aforesaid offences against the petitioners, as such, the instant petition deserves to be dismissed.

4. I have heard learned counsel for the parties, considered their rival submissions and went through the records with utmost circumspection.

1 (2004) 4 SCC 100

2 AIR 2010 SC 3363

3 2019 (5) SCC 384

4 WPCR No. 430/2020 decided on 23/11/2020

5. The question for consideration herein is, whether the Court at Durg has the jurisdiction for prosecution of the aforesaid offences against the petitioners ?

6. The first issue raised herein qua jurisdiction of the Court now stands determined by Their Lordships of the Supreme Court in the matter of Rupali Devi (supra) in which Their Lordships formulated the question of reference in paragraph 1 of the judgment, which states as under :-

"1."Whether a woman forced to leave her matrimonial home on account of acts and conduct that constitute cruelty can initiate and access the legal process within the jurisdiction of the courts where she is forced to take shelter with the parents or other family members ?" This is the precise question that arises for determination in this group of appeals."

7. Their Lordships, then proceeded to consider the aforesaid question in paragraph 14, which states as under :-

"14. "Cruelty" which is the crux of the offence under Section 498A IPC is defined in Black's Law Dictionary to mean "The intentional and malicious infliction of mental or physical suffering on a living creature, esp. a human; abusive treatment; outrage (Abuse, inhuman treatment, indignity)". Cruelty can be both physical or mental cruelty. The impact on the mental health of the wife by overt acts on the part of the husband or his relatives; the mental stress and trauma of being driven away from the matrimonial home and her helplessness to

go back to the same home for fear of being illtreated are aspects that cannot be ignored while understanding the meaning of the expression "cruelty" appearing in Section 498A of the Indian Penal Code. The emotional distress or psychological effect on the wife, if not the physical injury, is bound to continue to traumatize the wife even after she leaves the matrimonial home and takes shelter at the parental home. Even if the acts of physical cruelty committed in the matrimonial house may have ceased and such acts do not occur at the parental home, there can be no doubt that the mental trauma and the psychological distress caused by the acts of the husband including verbal exchanges, if any, that had compelled the wife to leave the matrimonial home and take shelter with her parents would continue to persist at the parental home. Mental cruelty borne out of physical cruelty or abusive and humiliating verbal exchanges would continue in the parental home even though there may not be any overt act of physical cruelty at such place."

8. Finally, Their Lordships concluded in paragraph 16 as under:-

"16. We, therefore, hold that the courts at the place where the wife takes shelter after leaving or driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, would, dependent on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498A of the Indian Penal Code."

9. The Principle of law laid down by the Supreme Court in *Rupali Devi* (supra) has further been followed by Their Lordships of the Supreme Court in the matter of **Ruhi v. Anees Ahmad**⁵.

10. Going by the principle of law laid down by Their Lordships of the Supreme Court in Rupali Devi (supra) would clearly show that as in the present case, the respondent No. 2/complainant having driven away from her matrimonial home at Bhopal took shelter with her parents and started residing at her parental home at Bhilai, Distt. Durg, therefore, the Durg Court would also have the jurisdiction to entertain and try complaint for above stated offence under Section 498-A read with Section 34 of IPC read with Section 4 of the Dowry Prohibition Act.

11. Even otherwise, on the basis of the charge-sheet available on record and upon the perusal of the statements of Dinesh Chandra Jain, Ashok Kumar Jain, Satyam Pandey and Balmukund Tiwari under Section 161 of CrPC, learned trial Court has clearly recorded the finding that on 13/05/2012, Rahul Jain and Sunita Jain, accused/petitioners herein, entered into the house of complainant/respondent No. 2 and forcefully tried to snatch girl child of complainant and thereby, caused mental cruelty to the complainant/respondent No. 2, as such, the prosecution for the aforesaid offence would also come under the jurisdiction of the Court at Durg

and it cannot be held that the trial Court at Durg has no jurisdiction to try the charges levelled against the petitioners and the objection raised on behalf of the petitioners has rightly been rejected by learned trial Magistrate.

12. The next submission made by learned counsel for the petitioners is that taking the allegations against them as they are, in charge sheet filed by the prosecution, no case is made out against the petitioners i.e. husband and mother-in-law (as father-in-law has already died during the pendency of the petition). (Though the charge-sheet has been filed before the trial Court but the copy of the entire charge-sheet has not been filed before the Court), but on the basis of the documents available on record, it is quite vivid that petitioner No. 1 has caused injuries by razor blade to the complainant/respondent No. 2 by which she has suffered grievous injuries for which he has also been charged with Section 324 of IPC and further the allegation is that on 13/05/2012 as stated herein-above, petitioners No. 1 and 3 came into the house of the complainant/respondent No. 2 and forcefully tried to snatch her girl child and thereby, they are said to have been committed the offence which is clear from the statement of

father of the complainant under Section 161 of CrPC filed by respondent No.2 along with return.

13. Considering material available on record before this Court, this Court is of the considered opinion that the petitioners have failed to make out a case for quashment of the criminal proceeding against them either on the question of jurisdiction of the Court at Durg or on merits of the matter.

14. Similarly, the divorce petition which is said to have been filed by respondent No.2 herein and which has been allowed, will not give ground to quash the criminal proceedings against the petitioners. Therefore, argument based on that ground is also rejected.

15. Accordingly, this writ petition stands dismissed.
No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet