

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

980 CRIMINAL WRIT PETITION NO.923 OF 2021

PRACHI W/O JAY HARSUKHLAL CHAUHAN @ PRACHI D/O MANISH
PARMAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....
Advocate for Petitioner : Mr. Anandsingh Bayas
APP for Respondents: Mr. R.V. Dasalkar
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**CORAM : V. K. JADHAV AND
SANDIPKUMAR, C. MORE, JJ.
DATED : 16th MARCH, 2022**

PER COURT:-

1. By consent of the parties, heard finally at admission stage.
2. The petitioner is the original complainant in connection with crime No. 255 of 2021 registered at Pundliknagar Police Station, Aurangabad for the offences punishable under Sections 498-A, 420, 406, 307, 323, 504, 506 r.w. 34 of I.P.C..
3. It is the case of the petitioner that the petitioner got married to co-accused Jay Chauhan on 3.12.2020 at Aurangabad and the accused Jay (husband of the petitioner) is hailing from Nashik. According to the petitioner, the marriage of the petitioner was outcome of the fraud practice upon her and her parents. After the marriage, the petitioner went to reside at Nashik at her husband's house, however, as per the allegations made in the complaint, she

was physically and mentally harassed and tortured and she was assaulted. She was also denied the physical intimacy. After the last incident that was occurred on 24.4.2021, the petitioner original complainant started residing at her parents' house at Aurangabad. It further appears that so far as the allegations attracting ingredients of Section 307 of I.P.C. are concerned, since the said incident allegedly taken place in the matrimonial house situated at Nashik, the crime No. 255 of 2021 registered with Pundliknagar Police Station, Aurangabad came to be transferred to Upnagar police station, Nashik on 22.7.2021 and presently the same is registered as crime No. 121 of 2021.

4. Learned counsel for the petitioner submits that the parties have arrived at amicable settlement and the consent terms are also worked out. The petitioner and her husband Jay have decided to end their matrimonial relations forever and they have approached the Family Court by filing a petition bearing No. F-308 of 2021 for decree of divorce by mutual consent as provided under Section 13-B of Hindu Marriage Act.

5. Learned counsel submits that in view of the authoritative pronouncement of the Supreme Court in the case of ***Rupali Devi vs. State of Uttar Pradesh, reported in (2019) 5 SCC 384***, 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. Learned counsel submits that in view of the same, the said crime number is required to be investigated and dealt with by the Pundliknagar police station, Aurangabad and necessary orders are required to be passed with regard thereto.

6. Learned A.P.P. appearing for all respondents submits that in view of the ratio laid down by the Supreme court in the case of ***Rupali Devi vs. State of Uttar Pradesh (supra)*** appropriate order may be passed.

7. The Supreme Court in the case of ***Rupali Devi vs State of Uttar Pradesh (supra)*** has dealt with the following question;-

"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".

In para 15 of the said judgment, the Supreme Court has discussed the provisions of Section 498A of I.P.C. with the Explanation "A" and "B" which defines the cruelty and further observed that "*.....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.”

8. Thus, in para 16 of the judgment, the Supreme court has made following observations:-

“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. In view of the same, the order dated 15.7.2021 passed by the Police Sub Inspector, Pundliknagar Police Station, Aurangabad, unilaterally transferring the investigation of crime No. 255 of 2021 to Upnagar Police Station, Nashik is liable to be quashed and set aside. In consequence thereof, the crime No. 255 of 2021 registered with Pundliknagar Police Station, Aurangabad is to be restored at its original number and the Pundliknagar Police Station, Aurangabad has to carry out further investigation in connection with the said crime. In view of above, we proceed to pass the following order:-

O R D E R

- I. Criminal writ petition is allowed in terms of prayer clause "B".
- II. Criminal writ petition is accordingly disposed of.

(SANDIPKUMAR. C. MORE, J.)

(V. K. JADHAV, J.)

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