

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO.1096 OF 2019
(Arising out of SLP(Criminal) No.10566 of 2018)**

NITIKA

APPELLANT(S)

VERSUS

YADWINDER SINGH & ORS.

RESPONDENT(S)

O R D E R

Leave granted.

Heard learned counsel for the parties.

This appeal has been filed against the judgment and order dated 10.08.2018 passed by the High Court of Himachal Pradesh, Shimla by which High Court has allowed the Cr.M.M.O. No.12 of 2015 filed by the respondents quashing the First Information Report on the ground that police at Nalagarh had no jurisdiction to enquire into the contents of first information report and as such there is no occasion for the High Court to go into the correctness of the allegation as well as sustainability of charge. In paragraph 44 of the judgment following has

been observed by the High Court:

"44. In the peculiar facts and circumstances of the case, as has been discussed above, this Court has arrived at a conclusion that Police at Nalagarh has/had no jurisdiction to enquire into the contents of FIR and as such there is no occasion for this Court to go into the correctness of the allegation as well as sustainability of charge, if any, framed against the petitioners. As has been noticed hereinabove, inherent power under Section 482 Cr.P.C., is to be exercised sparingly, carefully or with caution and only when such exercise is justified by the tests specifically laid down under Section 482 Cr.P.C. itself. True, it is, that it should be exercised ex debito justitiae to do real and substantial justice. Judgment referred to hereinabove nowhere suggests that power under Section 482 Cr.P.C. cannot be exercised by the Court at all, rather exercise of it would depend upon the facts of the case before it. Hon'ble Apex Court in the aforesaid judgment has held that inherent power should not be exercised to stifle a legitimate prosecution. But, what is legitimate prosecution depends upon facts of the particular case. In the case at hand, as has been, elaborately discussed hereinabove clearly suggests that Police at Nalagarh has/had no authority/jurisdiction to investigate into allegations contained in FIR, which admittedly took place at Jalandhar and as such Courts at Nalagarh have/had no jurisdiction to continue with the proceedings, which are apparently based upon the investigation carried out by police at Nalagarh and as such same cannot be allowed to sustain. Since police at Nalagarh had no jurisdiction, as has/had been held hereinabove, proceedings if any pending before Courts at Nalagarh cannot be allowed to sustain."

Learned counsel for the appellant contends that the present case is fully covered by the three-Judge Bench Judgment of this Court in Rupali Devi Vs. State of Uttar Pradesh & Ors., 2019 (6) SCALE 96. This Court was dealing

with a similar question pertaining to first information report under Section 498A of Indian Penal Code. This Court in paragraphs 14, 15 and 16 laid down following:

"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 cause 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.

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 the Domestic Violence in the Protection of Women

from Domestic Violence Act, 2005 contemplates harm or injuries that endanger the health, safety, life, limb or wellbeing, 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 498A, Indian Penal Code which defines cruelty. The provisions contained in Section 498A of the Indian Penal Code, undoubtedly, encompasses 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.

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."

Learned counsel for the appellant submits that his case is fully covered by law laid down by this Court in above paragraphs; the High Court has committed error in

quashing the first information report.

Learned counsel for the respondents refuting the submissions of learned counsel for the appellant contents that this Court in paragraph 16 of the judgment has also clearly held that factual situation of each case shall be looked into and High Court in the present case has held that no cause of action arose within the jurisdiction of Nalagarh.

What this Court has laid down in paragraph 16 above clinches the issues. It was held by this Court that 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.

We are of the view that High Court in the present case has committed error in quashing the first information report. In result, we set aside the judgment of the High Court and direct that criminal proceedings shall proceed at Nalagarh and be taken to its logical end. However, looking to the fact that chargesheet/challan was already submitted on 12.12.2015,

we request the Court concerned to proceed expeditiously
in the matter.

The appeal is disposed of accordingly.

.....J.
(ASHOK BHUSHAN)

.....J.
(NAVIN SINHA)

New Delhi
July 23, 2019

**S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S**

Petition(s) for Special Leave to Appeal (Cr1.) No(s).10566/2018

(Arising out of impugned final judgment and order dated 10-08-2018 in CRLMM No. 12/2015 passed by the High Court Of Himachal Pradesh At Shimla)

NITIKA

Petitioner(s)

VERSUS

YADWINDER SINGH & ORS.

Respondent(s)

(WITH INTERIM RELIEF)

Date : 23-07-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHUSHAN

HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s)

Mr. Arvind Kr. Sharma, Adv.

Mr. Aniteja Sharma, Adv.

Mr. Raj Kishor Choudhary, AOR

For Respondent(s)

Mr. Sarthak Ghonkrokta, Adv.

Mr. Bhaskar Y. Kulkarni, AOR

Mr. Vinod Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

Pending application(s), if any, stands disposed of.

(ARJUN BISHT)

COURT MASTER (SH)

(RENU KAPOOR)

BRANCH OFFICER

(signed order is placed on the file)