

A.F.R.

ORISSA HIGH COURT: CUTTACK

CRLMC No.2596 of 2015

In the matter of application under Section 482 of the
Criminal Procedure Code, 1973.

Smt. Geeta Tiwari & another Petitioners

-Versus-

State of Orissa & another Opp. Parties

For Petitioners : Ms. D. Mohapatra, Advocate

For Opp. Parties : Mr. S.S. Pradhan, AGA,
Mr. B.C. Moharana, Advocate
[O.P. No. 2]

P R E S E N T:

HONOURABLE MR. JUSTICE G. SATAPATHY

Date of hearing: 11.01.2023, Date of judgment:16.01.2023

G.SATAPATHY, J. The Petitioners challenging the territorial jurisdiction of the Court of learned S.D.J.M., Sambalpur has filed the CRLMC U/S. 482 Cr.P.C. by praying to

quash the order taking cognizance of offences and consequently, the criminal proceeding in G.R. Case No. 867 of 2013 pending in that Court.

2. Ms. Deepali Mohapatra, learned counsel for the Petitioners submits that all the allegations stated in the FIR had taken place at a far off place at Dhanbad in the State of Bihar and thereby, entertaining an FIR at Sambalpur on the aforesaid allegation of torture at Dhanbad amounts to an abuse of process of Court for want of jurisdiction. She by relying upon the decisions in the case of **Manish Ratan & others Vrs. State of M.P. and another; 2007(1) OLR(SC) 528 and Manoj Kumar Sharma and others Vrs. State of Chhattisgarh and another; (2016) 9 SCC 1** prays to quash order taking cognizance of offences as well as the criminal proceeding against the Petitioners.

3. In reply, Mr. S.S. Pradhan, learned A.G.A. by relying upon the decision in the case of **Rupali Devi Vs.**

State of Uttar Pradesh and others;(2019) 5 SCC

384 submits that since the allegation of torture on the petitioners at Dhanbad has a consequence of mental torture at Sambalpur, entertaining such FIR at Sambalpur cannot be considered to be without jurisdiction and, thereby, the CRLMC being unmerited needs to be dismissed.

4. Admittedly, neither parties have disputed the facts involved in this case in the course of argument, but assuming the allegation of torture to have taken place within the territorial jurisdiction of the place of stay at Dhanbad, Banglore and Delhi, the rival submission made on behalf of the parties are examined. In support of their contention, the Petitioners rely upon the decision in ***Manoj (Supra)***, wherein a two Judge Bench of Apex Court after appreciating the provisions of Sections 177 and 178 of Cr.P.C. has observed in Paragraph-27 that the territorial jurisdiction of the Court with regard to a

criminal offence would be decided on the basis of the place of occurrence of the incident. In elaborating in the aforesaid decision, the Apex Court in this Paragraph has observed as follows:-

27. "The territorial jurisdiction of a Court with regard to a criminal offence would be decided on the basis of the place of occurrence of the incident. In the instance case, the suicide was committed at Ambala. Ambala Police closed the case after fulfilling the requirements of Section 174 of the Code holding that there was no foul play in the incident and also there was no requirement of lodging FIR under Section 154 as none of the family members of the deceased raised any suspicion over the death even though the death was committed within seven years of marriage. Also, there is no evidence of it being a continuing offence. Hence, the offence alleged cannot be said to have been committed wholly or partly within the local jurisdiction of the Magistrate's Court at Durg. Prima facie, none of the ingredients constituting the offence can be said to have occurred within the local jurisdiction of that Court."

5. While challenging the territorial jurisdiction of the Court in this case, learned counsel for the Petitioners

has relied upon the decision in **Manish Ratan (Supra)**, but the learned A.G.A. has relied upon the decision in **Rupali Devi (Supra)** wherein a three Judge Bench of Apex Court after noticing the view taken in **Manish Ratan (Supra)** and other cases has been pleased to observe in Paragraph-15 as under:-

15. *"The provisions contained in Section 498-A of the 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 498-A at the parental home. The consequences of the cruelty committed at the*

matrimonial home results in repeated offences being committed at the parental home. "

6. In the above case, the Apex Court has also observed in Paragraph 16 as follows:-

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 498-A of the Penal Code. "**

(emphasis supplied by bold letters)

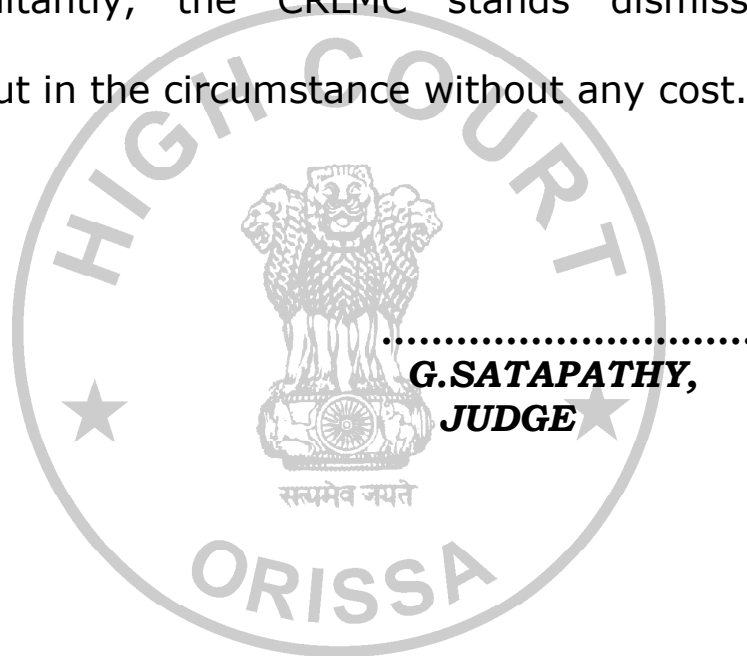
7. There cannot be any cavil of doubt that the act of "cruelty" as contemplated in Section 498-A of IPC can either be mental or physical and the physical acts of cruelty has definite consequence on mental faculty of the victim of torture. Hence, the physical cruelty meted to the wife at her matrimonial home would have an

adverse impact and effects on the mental health of the wife at her parental home, especially when the offence U/S. 498-A of IPC is a continuing offence and torture as meted to wife at different place would also torture the wife mentally for a longer period. A bare perusal of the allegations recorded in the FIR also reveal allegation of prima facie mental torture at Sambalpur, since in the last portion of the FIR by the informant states that she was bearing the torture of husband, mother-in-law and sister-in-law and now when they tortured more, she is reporting at Police Station. Besides, the allegation against the husband-petitioner for sending SMS to different girls for marriage proposal prima facie disclose mental torture upon the informant and, thereby, such mental torture can be well said to have taken place at Sambalpur.

8. In view of the discussion of above facts and the principle settled in **Rupali Devi (Supra)** and taking into

consideration the allegation levelled against the Petitioners in this case, this Court is of the considered view that the learned S.D.J.M., Sambalpur has got territorial jurisdiction in the matter and thereby, the present CRLMC by the Petitioners has no merit.

9. Resultantly, the CRLMC stands dismissed on contest, but in the circumstance without any cost.



Orissa High Court, Cuttack
The 16th January, 2023, Priyajit