

**THE HIGH COURT OF MADHYA PRADESH AT JABALPUR**

**(Single Bench - Rajendra Mahajan, J.)**

**M.Cr.C. No.2744/2016**

- 1.** Anurag Mathur, S/o Suresh Bihari Mathur, aged about 42 years
- 2.** Suresh Vihari Mathur, S/o Late Shri Ganga Sahay Mathur,
- 3.** Smt. Kusum Mathur, W/o Suresh Mathur,

All the above are residents of 290, Mahaveer Nagar, Maharani Farm, Seedling School, Durgapur, Jaipur (Rajsthan)

**Petitioners**

**V E R S U S**

- 1.** State of M.P., through: Mahila Police Thana, Bhopal
- 2.** Smt. Anjali Mathur, W/o Shri Anurag Mathur, D/o Shri Sudheer Shrivsatava, R/o Amravihar Colony, Nayapura Kolar Road, Bhopal (M.P.)

**Respondents**

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For petitioners : Shri Amitabh Gupta, learned counsel.

For Respondent : Shri Y.D. Yadav, learned Panel Lawyer.  
No.1/State.

For Respondent No.2: Shri Pradeep Sahu, learned counsel.  
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**ORDER**

(Passed on the 11<sup>th</sup> Day of April, 2017)

The petitioners have invoked the extra-ordinary jurisdiction and powers of this court under Section 482 of the Cr.P.C. for setting aside the order dated 14.10.2015 passed by the Sixth Additional Sessions Judge and Special Judge, Bhopal, in Criminal Revision No.439/2015 affirming the order dated 29.06.2015 passed by the Judicial Magistrate First Class, Bhopal, in RT No.8335/2013 taking cognizance against the petitioners for the offences punishable under Sections 498-A and 406 of the IPC and 3 and 4 of the Dowry Prohibition Act 1961 (for short 'the DP Act') rejecting the pleas raised by the petitioners that the court at Bhopal has no territorial jurisdiction to try the case and for their discharge under Section 239 Cr.P.C.

**2.** The brief facts necessary for the adjudication of this petition are infra:-

(2.1) On 12.06.2013, complainant Anjali, who is respondent No.2 herein, handed over a typed complaint to the SHO, Mahila Police Station, Bhopal, with a prayer to take actions upon her complaint against the petitioners. The gist of her

complaint is that she got married to petitioner No.1 Anurag on 16.01.2012 as per Hindu rites and customs at Jaipur, the native place of the petitioners. Petitioner No.2 Suresh and petitioner No.3 Kusum are her in-laws. In the marriage, her parents gave 22 tolas of gold ornaments, other valuable articles and five lakhs rupees in cash. In addition to that, her parents gave two lakhs rupees in cash for the purchase of household articles at Agartala, where petitioner No.1 was posted at the time of marriage. Some days into the marriage, the petitioners started forcing her to bring five lakhs rupees in cash and one luxury car from her parents in dowry. She would tell them that her parents had recently married her and their financial position is not such as to fulfill their said demands. Consequently, petitioner Nos. 2 and 3 started maltreating and misbehaving with her. Upon their instigation, petitioner No.1 often beat her. They summoned her only brother Amit to Jaipur. On 27.01.2012, they sent her with him to Bhopal giving a threat that so long as she does

not bring five lakhs rupees in cash and one luxury car in dowry, she has to stay put with her parents at Bhopal. When she was coming to Bhopal with her brother, petitioner No.3 snatched her all gold ornaments. On 04.02.2012, petitioner No.1 came over to Bhopal. At that time, petitioner No.3 instigated him from Jaipur on mobile-phone to bring respondent No.2 with him only when her parents give him five lakhs rupees in cash and one car in dowry. Her parents and she refused to meet his said demand. Thereupon, petitioner No.1 committed marpeet with her before her parents and others. Her parents, brother and sister came to her rescue. However, petitioner No.1 took her Jaipur from Bhopal. There, he left her and went to Agartala. She stayed with petitioner Nos. 2 and 3 at Jaipur for a period between January 2012 and April 2012. During that period, they often told her to take divorce from petitioner No.1 so that they could marry him second time to get a car and rupees ten lakhs in cash in dowry. They kept her in confinement.

They gave her only bread and namkeen to eat. They did not allow her to talk with her parents and close relatives on phone. In that period, her father and brother came over to Jaipur 2 to 3 times and persuaded them to send her with petitioner No.1 to Agartala. Thereupon, he took her to Agartala along with his parents. There, he and his parents used to demand five lakhs rupees in cash and a car in dowry. Besides that, he would not talk to her and tortured her mentally by sending SMSes. In the circumstances, she apprised her parents of her miserable living condition. Thereupon, on 11.06.2012, her brother came over to Agartala by a flight and took her back. If her brother had not come in time, then she would have been killed by the petitioners. At Agartala, the petitioners misbehaved with her brother, too. They sent her with him to Bhopal with a threat of giving divorce by petitioner No.1.

(2.2) Respondent No.2 has also stated in the complaint that upon the persuasion of her parents and her close relatives the petitioners asked them to

come over Jaipur for talks. Thereupon, on 30.09.2012 she, her parents and others reached Jaipur. In the presence of petitioner No.1's sister and her husband, they agreed to keep her with them giving up their old demands of dowry. Thereupon, she started residing with them since 29.10.2012 at Jaipur. However, there was no change in the behaviour of petitioner Nos. 2 and 3 towards her and some days later they revived their old demand of dowry. On 21.12.2012, petitioner No.1 came over to Jaipur from Agartala and committed marpeet with her raising old demand of dowry or in the alternative to take divorce from him. On account of their physical and mental torture and harassment, she fell ill. Thereupon, she apprised of her illness to her parents. On 25.12.2012, her father, brother, maternal uncle and brother-in-law (husband of her sister) came over to Jaipur and they took her back to Bhopal. On 11.02.2013, she gave an application to Mahila Paramarsh Kendra, Bhopal for amicable settlement of matrimonial disputes.

On 11.06.2013, petitioners refused to come over Bhopal for counselling.

(2.3) On 12.06.2013, the police of Mahila Police Station, Bhopal registered the complaint at FIR Number 0/2013 under Sections 498-A and 34 of the IPC and 3 and 4 of the DP Act and made the petitioners accused of the case. Thereafter, the FIR and other documents had been sent to the Police Commissioner, Jaipur through the Superintendent of Police, South Bhopal with a prayer to direct the jurisdictional police station of Jaipur to register the case against the petitioners. The Police Commissioner sent back the FIR with a communication vide letter No.864/13 dated 27.06.2013 with a direction to the SHO, Mahila Police Station Bhopal, that as per the law laid down by the Supreme Court in the case of Sunita Kumari Kashyap Vs. State of Bihar and another, (AIR 2011 SC 1674), the Mahila Police Station, Bhopal has jurisdiction to register a case against the petitioners as the complainant, who is respondent No.2 herein, is presently

residing in Bhopal with her parents. Thereupon, on 19.07.2013, the police of Mahila Police Station, Bhopal registered the case at Crime No.138/2013 against the petitioners.

(2.4) Upon the conclusion of investigation, the Mahila Police, filed the charge-sheet against the petitioners for their prosecution in the aforesaid Sections of law in the jurisdictional court of the Judicial Magistrate First Class, Bhopal (for short 'the Court'). Thereupon, a criminal case is registered at RT No.8335/2013. The petitioners filed an application under Section 239 Cr.P.C. in the case for their discharge on the ground that the court has no territorial jurisdiction to try the case. Vide order dated 29.06.2015, the learned JMFC rejected the said application and took cognizance against them for the offences punishable under Sections 498-A and 406 of the IPC and 3 and 4 of the DP Act. It be noted that on 20.10.2015, the learned JMFC has framed the aforesaid charges against the petitioners.

**3.** Feeling aggrieved by the order dated 29.06.2015,



the petitioners filed Criminal Revision No.439/2015, which was disposed of vide the impugned order dated 14.10.2015 passed by the Sixth Additional Sessions Judge and Special Judge, Bhopal, affirming the said order.

**4.** Feeling again grieved by the rejection of the criminal revision, the petitioners have approached this court by filing this petition.

**5.** It is submitted before this court on behalf of the petitioners by learned counsel Shri Amitabh Gupta that in order to usurp the territorial jurisdiction of the Court at Bhopal it is falsely stated in the complaint that petitioner No.1 came over to Bhopal on 04.02.2012 and demanded five lakhs rupees in cash and a car from respondent No.2 and her parents in dowry. Upon their refusal, he committed marpeet with respondent No.2. It is submitted that no investigation was done by the Investigating Officer of the case on the point whether petitioner No.1 came over to Bhopal on the said date and he was provoked by petitioner No.3 on mobile-phone as alleged by respondent No.2 in the complaint. It is submitted that in the absence of any independent investigation on the said points, the Court has no territorial jurisdiction to try the case. It is submitted

that if it is assumed that petitioner No.1 came over to Bhopal on the said date, he had talks with petitioner No.2 on mobile-phone and he committed offences as alleged, despite that the Court has no territorial jurisdiction to try the case because the alleged crime occurred mainly either at Jaipur or Agartala except an alleged isolated incident of 04.02.2012. It is submitted that the Court has no jurisdiction to try the case against petitioner Nos.2 and 3 because it is not the case of respondent No.2 that they had ever come over to Bhopal during the period of the crime. Hence, the Court has erred in taking cognizance against petitioner Nos. 2 and 3. It is contended upon these submissions by him that the learned JMFC has wrongly held vide the order dated 29.06.2015 that he has jurisdiction to try the case and that the learned revisional Judge has erred in upholding the said order vide the impugned order. In support of these submissions, reliance is placed upon a decision rendered by the Supreme Court in the case of Amarendu Jyoti and others Vs. State of Chhattisgarh and others, [(2014) 12 SCC 362].

**6.** In alternative, learned counsel for the petitioners has submitted that vide order dated 16.01.2014 passed in

Criminal Appeal No.71/2012 titled Rupali Devi Vs. State of U.P. and others, a two-Judge Bench of Hon'ble the Supreme Court has referred the matter to a larger Bench to decide the point whether a case of cruelty on account of dowry harassment punishable under Section 498-A of the IPC can be registered, investigated and punished in a jurisdiction different from the one from which the aggrieved wife has been forced out on account of such harassment. It is submitted that the larger Bench of the Supreme Court is yet to adjudicate the point. Therefore, until the decision of the larger Bench, this petition be put on hold.

**7.** Per contra, it is submitted on behalf of respondent No.2 by learned counsel Shri Pradeep Sahu that it is clearly stated in the FIR that petitioner No.1 came over to Bhopal on 04.02.2012. At that time, he made a demand of five lakhs rupees in cash and a car in dowry at the provocation of petitioner No.3 on mobile-phone from Jaipur and also committed beating with respondent No.2 in connection with demand of dowry. Thus, the Court has territorial jurisdiction to try the case in view of the provisions of Section 178(b) Cr.P.C. In this regard reliance is placed by him upon the ratio decidendi in Sunita Kumari Kashyap's case (supra). It

is submitted that in view of dowry related offences committed by petitioner No.1 at Bhopal, the Court has territorial jurisdiction to try the case not only against petitioner No.1 but also against petitioner Nos. 2 and 3. In support of the said contention, reliance is placed upon a decision rendered by the Supreme Court in the case of Sujata Mukherjee (Smt.) Vs. Prashant Kumar Mukherjee, [(1997) 5 SCC 30]. It is submitted that this court has no power under Section 482 Cr.P.C. to examine the prosecution case from the angle whether it was necessary on the part of the Investigating Officer of the case to collect the independent evidence regarding the visit of petitioner No.1 to Bhopal on 04.02.2012 and commission of alleged offences by him as stated by respondent No.2 in the FIR as also reiterated by her, her father and brother in their case dairy statements. It is submitted that until and unless they are subjected to cross-examine on behalf of the petitioners in the course of trial of the case, their said statements will remain true. It is submitted that in the course of trial, if it is proved by the petitioners that on 04.02.2012 petitioner No.1 had not come over to Bhopal, then the territorial jurisdiction of the Court at Bhopal would be ousted and as a

consequence the trial would be vitiated. Until that stage is arrived in the case, the court has territorial jurisdiction to try the case.

**8.** Learned counsel for respondent No.2 has strongly urged that the facts of the present case and those of Rupali Devi's case are entirely different. Therefore, there is no need of keeping the present case in abeyance until the decision of larger Bench of the Supreme Court in that case as urged by learned counsel for the petitioners. Upon these submissions, it is prayed by him that this petition has no merits, therefore, it be dismissed upholding the orders passed by the courts below.

**9.** Learned Panel Lawyer has adopted the arguments raised by learned counsel for respondent No.2.

**10.** I have anxiously considered the rival submissions made at the Bar and perused the entire material on record.

**11.** To resolve the controversy over the territorial jurisdiction of the court at Bhopal, Sections 177 and 178 Cr.P.C., are relevant which provide for place of inquiry and trial of a case. The said Sections are reproduced below:-

**“177. Ordinary place of inquiry and trial.—**  
Every offence shall ordinarily be inquired into and

tried by a Court within whose local jurisdiction it was committed.

**178. Place of inquiry or trial.** — (a) When it is uncertain in which of several local areas an offence was committed, or

(b) where an offence is committed partly in one local area and partly in another, or

(c) where an offence is a continuing one, and continues to be committed in more local areas than one, or

(d) where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.”

A bare reading of the aforesaid Sections makes it clear that Section 177 Cr.P.C. states the ordinary place of inquiry or trial, whereas Section 178 Cr.P.C. provides for place of inquiry or trial when it is uncertain in which of several local areas an offence was committed or where the offence was committed partly in one local area and partly in another and where it is consisted of several acts done in different local areas, it could be inquired into or tried by a court having jurisdiction over or any such local areas. In the present case, as per the contents of the FIR and the case diary statements of respondent No.2, her father and

brother, petitioner No.1 came over to Bhopal on 04.02.2012 and there he committed dowry related offences in furtherance of demand of dowry as made by him and his parents. In the light of aforestated factual matrix, it is held that the provisions of clause(b) of Section 178 Cr.P.C. is wholly attracted in the present case irrespective of the facts that an isolated part/portion of the whole crime occurred in Bhopal, whereas the major parts of it occurred in Jaipur and Agartala because the dictionary meaning of "partly", which is appearing in Section 178(b) Cr.P.C., is to some extent or in some degree i.e. an unspecified amount or extent or number of degree. Therefore, it is held that the Court at Bhopal has territorial jurisdiction to hold trial of the case.

**12.** In Sujata Kukherjee's case (supra), the parents of complainant-wife were residents of Raipur, whereas her husband, an accused, and other accused persons of the case were the residents of Raigarh. The complainant-wife had to come to Raipur to save herself from the maltreatment and humiliation being meted out to her at the hands of all the accused persons. The complainant-wife has stated in the FIR, *inter alia*, that her husband had also come to the house of her parents at Raipur and there he

had also assaulted her. On the basis of the said facts, the Supreme Court has held that even though only one isolated incident of dowry related offence was committed at the complainant-wife's parental house at Raipur, the court at Raipur has territorial jurisdiction to try the case. The Supreme court has also held that the FIR reveals that on some occasions all the accused persons had taken part in the commission of dowry related offences, on other occasion one of the accused persons had taken part in commission of the alleged offences, therefore, the Court at Raipur will have jurisdiction to try the case against all the accused persons though only the husband committed the offence at Raipur.

**13.** In Sunita Kumari Kashyap's case (supra), the complainant-wife's parents were residents of Gaya and her husband, an accused, and other accused persons of the case were residents of Ranchi. The accused persons harassed and tortured her for bringing less dowry. The complainant-wife has stated in the FIR that her husband brought her to Gaya from Ranchi and gave her a threat of dire consequences for not fulfilling their demand of dowry at Gaya. The Supreme Court, having placed reliance upon



the decision rendered in Sujata Mukherjee's case (supra), has held that the court at Gaya will have territorial jurisdiction to try the case not only against the husband but also other accused persons of the case.

**14.** In the case in hand, respondent No.2 has specifically asserted in the FIR that petitioner No.1 came over to Bhopal on 04.02.2012 and insisted upon her and her parents to fulfill the old demand of dowry and upon their outright refusal, he committed marpeet with her. This incident is also reiterated among other incidents by respondent No.2, her father and brother in their case diary statements. In the light of these facts, the law laid down by the Supreme Court in Sujata Mukherjee's case (supra) and Sunita Kumari Kashyap's case (supra) are squarely applicable in the present case. It is, therefore, held that the Court at Bhopal has territorial jurisdiction to try the case against all the petitioners.

**15.** In the case of State of Bihar Vs. P.P. Sharma (AIR 1991 SC 1260), the Supreme Court has held that while deciding the petition under Section 482 Cr.P.C., the High Court cannot examine the case concerned whether the investigating officer has investigated the case with malafide

intention or committed certain lapses. In view of the ratio of said case-law, this court refrains itself from saying whether it is a lapse on the part of the Investigating Officer of the case that he had not verified from independent source the visit of petitioner No.1 to Bhopal on 04.02.2012. The issue is left open to decide by the trial court.

**16.** I am of the considered opinion that the High Court has no jurisdiction under Section 482 Cr.P.C. to examine the truthfulness of the allegations made by respondent No.2 in the FIR and she, her father and brother have retold the allegations in their case dairy statements that on 04.02.2012 petitioner No.1 came over to Bhopal and committed offences relatable to the demand of dowry. However, the petitioners have right to debunk them in the course of trial. This view of mine gets strength by the view taken by the Andhra Pradesh High Court in a decision rendered in the case of Ramesh Babu Vs. State of A.P. and another (2012 (4) Crimes 432).

**17.** The law laid down by the Supreme Court in Amarendu's case (supra) is not applicable in the present case because distinguishable facts are highly visible.

**18.** In the case of Zandu Pharmaceutical Works Ltd. Vs.

*Mohd. Asharful Haque and another*, [(2005) 1 SC 122], the Supreme Court has held that the High Court could exercise extra-ordinary power conferred under Section 482 Cr.P.C., in the following three circumstances; namely first-to give effect to an order under the code of criminal procedure, second-to prevent abuse of the process of the court and third-to secure the ends of justice. In view of the above propositions of law, I have examined the entire material available before me and find that none of the above circumstance exists in the case in hand. Therefore, this court cannot exercise the power under Section 482 Cr.P.C. for setting aside the impugned order and in consequence the quashment of entire proceedings in RT No.8335/2013.

**19.** In Rupali Devi's case (supra), the complainant-wife has stated in the FIR that she had suffered cruelties in connection with demand of dowry at the hands of her husband and relations-in-law at place Mau where they reside, whereas she has lodged the FIR against them at the Police Station Deoria, the place where the complainant-wife was living with her parents after she being driven out from her matrimonial home at Mau. The police launched the prosecution against them in the court at Deoria. Though the

court at Deoria took the cognizance of offences against the complainant's husband and her relations-in-law despite their opposition on the ground that the court has no territorial jurisdiction in the matter as all the alleged acts of cruelties were committed at Mau over which the court has no territorial jurisdiction. Feeling aggrieved thereby, the accused persons approached the Allahabad High Court which has, in turn, held that no part of the offences had been committed in Deoria as per the FIR of the case, therefore, the court at Deoria has no territorial jurisdiction to try the case. Thereupon, the complainant-wife approached the Supreme Court. Under the circumstances, the Supreme Court has referred the matter to a larger Bench on the point mentioned in para-6 of this order. In the present case, it has been held by this court that a part of the whole crime was committed at Bhopal, therefore, the Court at Bhopal has territorial jurisdiction to try the case. Thus, the facts of Rupali Devi's case (supra) are diametrically opposite from the facts of the present case. Consequently, the prayer made by learned counsel for the petitioners with regard to putting the matter on hold till the decision of the larger Bench of the Supreme Court in Rupali Devi's case, is

outright rejected. Moreover, in the case of Harbans Singh Vs. State of Punjab [(2009) 13 SCC 608], the apex Court has held that the pendency of a reference before a larger Bench of it does not mean that all other proceedings involving the same issue would remain stayed till a decision is rendered in reference by its larger Bench. Even it is assumed just for academic discussion that the said reference has bearings upon the case even remotely despite that the proceedings of the present case cannot be held in abeyance in view of the said ratio.

**20.** For the preceded discussions and conclusions, it is held that both the courts below have rightly held on facts and in law that the Court at Bhopal has territorial jurisdiction to try the case. Thus, this petition must fail and is dismissed.

**21.** It is made clear that this court has not expressed anything on the merits and claims of both parties and the above conclusion is confined to the territorial jurisdiction of the Court at Bhopal.

**22.** Accordingly, this petition is finally disposed of.

(Rajendra Mahajan)  
Judge