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The original signature is in original except complaints.

Signature / Thumb impression of the Complainant/informant

Signature of the Officer-in-Charge, Police Station with Name... PRANAB. ADHIKARY

Rank. S.I. Old Balarampus PS.

Number if any District that the C. W. B. Balarampur PS.

Dist. Purulia(W.B.)



In the Court of Chief Judicial Magistrate, Purulia

Misc Petition 31 2024

Name of the Petitioner :-

Suparna Das Jana, w/o Arnab Jana, d/o Pashupati Jana, presently residing at village- Balarampur, P.O- Rangadih, P.S- Balarampur, Dist-Purulia (W.B)

Name of the Accused Persons :-

- Arnab Jana s/o Prashanta Kumar Jana
- 2. Prashanta Kumar Jana s/o Late Jogeshwar Jana
- 3. Madhumita Jana w/o Prashanta Kumar Jana

All are resident of village- Porachingra, P.O- Porachingra, P.S- Bhupati nagar, Dist-Purba Medinipur (W.B).

Date of Occurance:

On 10/09/2023

Sections :- 498A, 323 IPC and 3, 4 D.P ACT

2. Pashupati Das s/o Late Addaitya Charan Das

Witnesses:

Petitioner / Complainant

3. Shivani Das w/o Pashupati Das

Surapati Das s/o Late Addaitya Charan Das

5. Namita Ges wis manaranjan Des Witness no 1,2 and 3 resident of vill- Balarampur, P.O- Rangadih, P.S-

Balarampur, Dist-Purulia and Witness no 4 resident of vill-Porachingra, Porachingra.

Porachingra, P.S- Bhupati nagar, Dist- Purba Medinipur,

Officer-In-Charge Balarampur P.S Dist.-Purulia(W.B)

Most Respectfully Sheweth :-

- 1. That the Petitioner is the legally married wife of the Accused person no 1 and their marriage was solemnised on 03/07/2022 by observing Hindu rites and Custom at the house of the Paternal Uncle of the Petitioner namely Surapati Das, village- Porachingra, P.O- Porachingra, P.S- Bhupati nagar, Dist- Purba Medinipur (W.B)
- 2. That at the time of marriage, the father of the Petitioner gave a sum of R.S- 1,50,000/- (Rupees one lakh fifty thousand), almirah, bed, fridge, dressing table and other costly articles including gold ornaments to the accused persons as demanded by the accused persons during the finalization of marriage.
- 3. That after marriage the petitioner stepped into her marital house with the company of accused person no 1 at his house at village- Porachingra, P.O- Porachingra, P.S- Bhupati nagar, Dist- Purba Medinipur (W.B), wherein the accused person no 1 along with other family members used to live together in a joint mess.
- 4. That marriage in between the parties have duly consummated.
- 5. That peace and harmony in marital journey of the Petitioner did not last longer and she was subjected to various torments after few months from her marriage due to demand of a motor bike by the Accused persons.
- 6. That when the Petitioner told her husband about inability of her poor father to fulfil the demand of a motor bike the Accused persons started torturing upon the Petitioner both mentally and physically, even the Petitioner did not provide with adequate food, clothing and essential livelihood items.
- 7. That due to not able to fulfil the demand of a motor bike by the Petitioner and her poor father, the Petitioner was driven out from her matrimonial house by the accused persons on 10/09/2023 followed by immense Physical torture and verbal assualt and as such the Petitioner was compelled to take shelter at her father's house under the mercy of her poor father.
- 8. That after she came back to her father's house, she lodge a written complaint through Registry Post to the O.C Balarampur P.S on Dated

02/02/2024, but she had not receive any responce from the OC Balarampur P.S, and then the Petitioner again lodge a written complaint to the S.P Purulia P.S on Dated 26/02/2024 but from there also no step has been taken yet.

 That there is no other alternative the Petitioner compelled to file this Petition before your Honour Court for proper justice and for the proper punishment of the above mention accused persons.

 That your Petitioner has not filed any complaint against the accused persons in any court of law through out India.



34

It is therefore prayed that your Honour may graciously be pleased to accept this Petition u/s 156(3) Cr.p.c and further be pleased to direct to concerned Police Station to started the case u/s 498A, 323 of I.P.C and u/s 3, 4 of D.P Act against the accused persons and pass necessary order may deem fit and proper.

AND

As in duty bound the Petitioner shall ever pray.

VERIFICATION:

Verified at Purulia on this......day of, 2023 that the contents of the instant case are true and correct to the best of my knowledge and belief and nothing material has been concealed therefrom.



In the court of the CJM, purelia. Misc petition 31/2024



Suparna das jana. - petitioner.

Arnab jane and other. - -- Accused persons-

tist of accumends on behalf of the perioner!

- 1. copy of a pritter complaint to the Oc Balarampur P.S.
- 2. copy of a inviter complainant to the SP purelle P.S.
- 3. Registery Post receipt of written couplainant to the Oc Balarampur P.S.
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ভারপ্রাপ্ত গোধিকারিক, করামগুর থানা, छिना-गृह्यतिझा(ग:व:)।

याननाइ प्राम्ह

আগনার নিতট আমার গবিনয় বিনীত নিবেদন এই যে, আমি লুপনা দাৰ জানা, লুখা-তাৰি জানা, পিতা-পদুপতি দাৰ, বৰ্তমান হিকানা-গ্রাম-বন্ধামপুর, পোণ্ট-রাখাডি, খানা-বন্ধামণুর, ডেলা-পুরু বিরা। চাপনার গানার চুর্প্রত বাজিন্দা। মহাশয় তাপনাকে জানায় যে তাখার মহিত করাটিংটা গ্রামের

নিবাজী তর্মৰ জানা, পিতা-পুশাণত কুমার আনা, পোলট-পোরা চিংরা, খানা-ভূণতিননর, তেলা-পূর্ব যোদনীপুর, এর গত ইংবাজী-০৩-০৭-২০২২ তারিখে হিন্দু শাস্ত মতে লাঘাতিক বিবাহ হয়। বিবাহের নহয় র পাত পহের नावी घटन मून-४, ६०, ०००।-गिला, वानधाती, गानःर, ट्रिशः टिवन, डिल, কাঁলা ও পিচলের কালনপঞ ইত্যাদি ঘোষার কাবার কাছে পন বাবদ চাওয়া হয় এবং লেয়ার বাবা গাএ গমের হব দাবী হেনে এই সহস্ত রক্ষের তিনিকা ाचात्र भागी रह एक ।

মহাশয় দেইমত কথা হওয়ার পর ইংরাজী তারির ৫৩-৩৭-২০৯২ णावित्य प्राचात ७ एन्द्र प्राचात विवास एवं । विवासित गया प्राचात वाचा চামারে একটি খলায় লোকার নেকলেল, লোকার চার, লোকার লাংটি, কানো সুৰু নুকোন নুগুর, চনা এবং বৌভাতে লামি লামে সোনার श्वरमा भारे । विवादित कांभित धामि धर्मे धर्मे आपने गुणुबरा हि याह अवः धायता भाषी-म्था विशास अवशास्त्र वयसाय वयसाय वयस्त थावि । विवास्त्र वस्त তাখার সমস্ত গমনা যামা আঘার বাবা আখাতে জেয় এবং যামা আমি বেলিতে পায় তাংশ নামার হামার খামার টগাইংতিতে নামার শাশুরি या प्रश्नीया जानात मानी जन्याकी जायाच लाए निष्ठ वासिक याया (गरतत नाजाम)



पामात म्हीयन शिकार भना । अवनव पान्यानिक विवास्त एहा भाष भव रण्टि पामाव श्वामी पर्नेव जाना पात्रथ अकि स्मिष्टेव वारेक प्रामात वावान जाफि रण्टि किस्न रच्छात जना प्रामास्क नाम मिर्प्ट थारक । प्रामि स्मिरेम्घ वावार्क स्मिष्टेत वारेस्वित कथा विन अवः वावा वस्त प्रामास्ति विवास्थित अन अथनथ रमाथ ना एथ्हात जस्त स्मिष्टेव वारेस्वित जना वावा गोला मिर्प्ट भावत्व ना । अरे कथा प्रामात श्वाह वाफिर्प्ट जानारनाव भव प्रामात देवन प्रप्रामान महन्द्र पह ।

परानाम जापात भाषी कर्नव लाना, गुग्नू ही पश्चिष्ठा लाना अवः শুশুর প্রশাপত কুয়ার জানা আমার উপর শারিরীক ও মান্ষিক তেয়াচার रुत्रा थारक , पायात यागूती प्रथ पिठा जानां पायार थारात रथरंड मिछ ना अवर धायी धर्मन धामा धामारक यात्रस्थात क्वरण थारक। धामि अधिवाम रबत्न लायात मुगमी तर्यन लाया, मागू ही यथ विवा लाया जनः मृग्ब नुगा क क्यांत जाना का मार्क स्विक एक एक, रवि किहू वनता णायारक वाणि थ्यारक रवेद करते एकरव । विवाधक भूटवं धावि धायात शुर्मी एर्नर जानार जानिए। विनाम एर, जामि D.et.ed नतीयात अन्त्रि निष्धि এवः পরবর্তীকাবেও পঢ়াশোনা চানিছে যেতে চায় তথন তামার यागी पाधारक रकारना अनात वाथा म्हिन विन्धा विवास्त नरत वायात गायी, मुगून अवः माणूनी नित्रन्तात जानित्य एक त्य वापि গঢ়াশোনা করতে গারবো না। তারণর পরীফার জন্য একবার বাপের गापि भिष्म जात्रनत भूग त्रवा कि फिल्त अल जायात भूगो जर्मव जाना, मागूडी प्रश्वीपटा जाना अवः मृगूड अमान्ड क्यात जाना वापार्व अवन्ड यात्र एवत अवः कायारक गाष्ठि थिएक रवित्र स्वार यात विक्त अव मध्य करत्व पाचि वृण्यत यापि प्रान कति नारे।

(গরের গাতায়)

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ঘহাশয় এরপর ইংরাজী-১০০০১।২০২০ তারিথে তামার ঘা, বাবা আ

তামার খুণ্ড বাভি তামে এবং তামার ঘামী তর্মন জানা মুণ্ড প্রশান্ত
তুমার জানা, শুণ্ডাী-তথ্বিতা জানা তামার বাবা ও মাতে থুম ধারাপ
ভাষায় তপ্যান করে । তামি প্রতিবাদ করেলে আমাতে গালি-গালাজ করে
এবং তামাকে মার্থাের করে এবং বাভি থেকে কের করে দেয়া। আমি সেই
সময় বাবা ও মায়ের লাথে নিজের বাভি চলে আমি । এরপর-২০০১-২০
তারিথে আমার বাবা আমার মুণ্ড বাঙি গোডাভিলো গ্রাম পঞ্চাত্রেত
একটি দর্থান্ত দেয় লব কিছু মিট-গাট হয়ে মাওলার জন্য সেইমত
পঞ্চায়েত থেকে একটি নোটিশ দেওলা হয় একরইংরাজীতারিও-২০০১-২০-২০
যেটিতে রেখা ছিল ২৭০০১-২০২০ তারিথে দুই বাভিকেই উপন্তিহত হতে
থবে কিণ্ডু তামার স্থামী তর্মন জানা, মুণ্ডু প্রশান্ত ভ্যার জানা এবং
শুণাভূটী-মধুমিতা জানা সেইথানে উপন্তিহত হননি এবং তালের সাথে
যোগামোগ করতে গেলে কোনোপ্রকার যোগাযোগ ও করেনি ।
তাই মহাশয় আপনার নিকট আমার বিশেষ তানুরোধ গামার এই

वार यहान्य कान्याय निर्मा कान्याय निर्मा कार्याय कर्षा कर्ष कार्याय कर्षा कर्ष कार्याय कार्या कर्ष्य कार्या कर्ष्य कार्या क्ष्याय कार्या कर्ष्याय कार्या कर्ष्याय कार्या कर्ष्याय कार्या कार्या कर्ष्याय कार्या कार्याय कर्ष्याय कार्याय कर्ष्याय कार्याय कार्य कार्याय कार्याय कार्याय कार्याय कार्याय कार्याय कार्याय कार्य कार्याय कार्याय

विनी छा-अंशेली भाअ (छहाता). (अंशेना छ मान छाना)

वर्षमान कियाना-शाम-वन्द्रायण्यः, रणाणी-दाशापि, याना-वन्द्रमण्याः, रप्ता-व्युत्तिमा(भःवः)।

TT



To,

পানিশ আর্চ্যাধিক ,শুরালিয়া (এস-পি) ডেলা-পারালিয়া(পংব:)।

भागनीय प्रशासक,

চাগনার কিটে চাগার গবিনয় বিনীত নিবেদন এই যে,

চাগি দুর্গনা দাল জানা, ঘুর্যা-চর্বর জানা, পিচা-গশ্পতি দাল, বর্তমান
ক্রিনা-গ্রাম-বন্নামগ্র, পোডট-রাখাডি, খানা-বন্নামগ্র, জেলাগ্র্নান্যা। জাগনার খানার জণ্ডর্গত বাভিগ্না।

श्रामा राजनारक जाना रम, राजा कारिए राजा हिस्सा श्रामा राजा राजा राजा हिस्सा विवासी उर्जन जाना, विवास जाना जाना कार्य जाना, राजा राजा राजा हिस्सा , थाना जा प्रिकार, रजना न्यूर्य राजिनी पूर्व उर्जन कर रेस्सा जो क्या कार्य विवास स्था। विवास स्था विवास स्था। विवास स्था विवास कार्य विवास कार्य विवास स्था विवास

गणामा रायेगा क्या प्रशास का ये आ जिल्ला का निवास का भारत । दिवासित गमा भारत अस्ति स्थानी अस्ति स्थानी अस्ति स्थानी अस्ति स्थानी अस्ति स्थानी स्थानी स्थानी का स्थानी स्था

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प्रशास सामान प्राणी सर्व साना, शाण्डी प्रयुक्ति साना उदः

पृण्ड - शुणा क ज्वान सामा सामा देवन माहिनोच स्वानिक स्वाना स्वान स्वात सामान देवन माहिनोच स्वान स्वात स्वात स्वात सामान प्राण्डी प्रयुक्ति स्वान सामान स्वात सामान सामान

(পরের পাতায়)



णायात मायो जाया क कारता अकात वाथा क्या कि कि विवास व विद्या जायात मायो, मुद्दे अवर माण्य कि वित्रकात जाति है। क्या ये, जावि विज्ञा क्या कारता वा । जाववत विद्या जन अक्यात वाक्य वाकि विद्य जाववत मुद्दे वाकि किस अस जायात मायो कर्व जाता, माण्यो प्रश्चिण जाता अवर मुद्दे अमा क्या कारता जायाक अनक पात्रकात करत अवर जायाक वाकि व्यक्त करिया व्यक्त विक्त व्यव करता अवर जायाक वाकि जाया करता व व्यक्त विक्त व्यव करता अवर जायाक वाकि जाया करता व व्यक्त विक्त व्यव करता करता विक्त वाकि जाया करता वाका

लायात मुग्ह वाहि लास्य अवः लायात मुगी धर्मव लाना मुग्ह अमान्त व्यात लाना, मुग्नू ही-यथ्न विला लाना लायात वावा ७ यास्य थ्व थातात लायात लगान वर्ष । लायि मुणियाम व्यात लायास्य भानि- वालाल वर्ष अदः लायास्य यात्रस्थात व्या अवः वाहि स्थर स्वत वर्ष स्था । लागि स्वते व्या यात्रस्थ वर्ष अवः वाहि स्थर स्वत वर्ष स्था । लागि स्वते व्या यात्रस्थ वास्य तिस्त्र वाहि एस लागि । अत्रवत - १८।३।१० लागिय लागात वाचा लायात मुगूह वाहि स्वाहित्स्य मुगह वाहित्स्य साल्या क्षा स्वतः स्वाहित्स्य स्वाहित्स्य प्राहित्स्य क्षा स्वाहित्स्य स्वाहित्स स्वा



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रमिथारन ऐनिष्यण यनित अवर जारमत आरथ रागनाराम कतरण रनतन रिवासन अनित राजाराम व नरानित । अवेत्न प्रान्य जामि जानामी जारार जानामा जानाम जानाम

याण विनीण -

Suparma Das (Jana).

वर्णयात विकासा-श्राप्त-वन्ताय**न्त्रः** रागणे-दावाषि थाना-वन्न<mark>्त्रायन्त्रः</mark> राजा-नृद्यानिमा(नःवः)।

णितिथ :....

REPORTABLE

N THE SUPREME COURT OF INDIA CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.71 OF 2012

RUPALI DEVI

OF CHIEF JUDICIAL

2021

APPELLANT

VERSUS

STATE OF UTTAR PRADESH & ORS.

RESPONDENTS

WITH

CRIMINAL APPEAL NO. 619 OF 2019 [Arising out of SLP(Crl.) No. 5695/2010]

CRIMINAL APPEAL NO. 620 OF 2019 [Arising out of SLP(Crl.) No. 8246/2010]

CRIMINAL APPEAL NO. 621 OF 2019 [Arising out of SLP(Crl.) No. 7387/2011]

CRIMINAL APPEAL NO. 622 OF 2019 [Arising out of SLP(Crl.) No. 5052/2014]

CRIMINAL APPEAL NO. 623 OF 2019 [Arising out of SLP(Crl.) No. 5139/2014]

JUDGMENT

RANJAN GOGOI, CJI

"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.

The opinions of this Court on the aforesaid question being sharply divided. 2. the present reference to a larger Bench has been made for consideration of the question indicated hereinabove.

- 3. In
- Y. Abraham Ajith and Others v. Inspector of Police. Chennai and Another (2004) 8 SCC 100,
- Ramesh and Others v. State of Tamil Nadu (2005) 3 SCC (ii)
- (iii) Manish Ratan and Others v. State of Madhya Pradesh and Another (2007) 1 SCC 262.
- Amarendu Jyoti and Others v. State of Chhattisgarh and (iv) Others (2014) 12 SCC 362.

a view has been taken that if on account of cruelty committed to a wife in a matrimonial home she takes shelter in the parental home and if no specific act of commission of cruelty in the parental home can be attributed to the husband or his relatives, the initiation of proceedings under Section 498A in the courts having jurisdiction in the area where the parental home is situated will not be permissible. The core fact that would be required to be noted in the above cases is that there were no allegations made on behalf of the aggrieved wife that any overt act of cruelty or harassment had been caused to her at the parental home after she had left the matrimonial home. It is in these circumstances that the view had been expressed in the above cases that the offence of cruelty having been committed in the matrimonial home the same does not amount to a continuing offence committed in the parental home to which place the aggrieved wife may have later shifted.

In Sujata Mukherjee v. Prashant Kumar Mukherjee (1997) 5 SCC 30; 4. Sunita Kumari Kashyap v. State of Bihar and Another (2011) 11 SCC 301 and



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State of M.P. v. Suresh Kaushal & Anr. (2003) 11 SCC 126 a seemingly different view has been taken. However, the said view may appear to be based in the particular facts of each of the cases in question. For instance, in Sujata Mukherjee (Supra) there was a specific allegation that the husband, after committing acts of cruelty in the matrimonial home, had also gone to the parental house of the wife where she had taken shelter and had assaulted her there. On the said facts this court in Sujata Mukherjee (Supra) held that the offence is a continuing offence under Section 178 (c) of the Cr.P.C. In Sunita Kumari Kashyap (Supra), there was an allegation that the wife was illtreated by her husband who left her at her parental home and further that the husband had not made any enquiries about her thereafter. There was a further allegation that even when the wife had tried to contact the husband, he had not responded. In the said facts, this court took the view that the consequences of the offence under Section 498A have occurred at the parental home and therefore, the court at that place would have jurisdiction to take cognizance of the offence alleged in view of Section 179 of the Cr.P.C. Similarly in State of M.P. vs. Suresh Kaushal (Supra) as the miscarriage was caused to the wife at Jabalpur, her parental home, on account of cruelty meted out to her in the matrimonial home, it was held that the court at the place of the parental home of the wife would have jurisdiction to entertain the complaint under Section 179 Cr.P.C.

5. The above two views which the learned referring bench had considered while making the present reference, as already noticed, were founded on the peculiar facts of the two sets of cases before the Court. It may be possible to sustain both the views in the light of the facts of the cases in which such view was rendered by this court. What confronts the court in the present case is

however different. Whether in a case where cruelty had been committed in a matrimonial home by the husband or the relatives of the husband and the wife leaves the matrimonial home and takes shelter in the parental home located at a different place, would the courts situated at the place of the parental home of the wife have jurisdiction to entertain the complaint under Section 498A. This is in a situation where no overt act of cruelty or harassment is alleged to have been committed by the husband at the parental home where the wife had taken shelter.

- A look at the provisions of Chapter XIII of the Code of Criminal Procedure, 1973 (Cr.P.C) dealing with the jurisdiction of the Criminal Court in inquires and trials will now be required. Section 177 of the Code of Criminal Procedure contemplates that "every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed". It is, therefore, clear that in the normal course, it is the court within whose local jurisdiction the offence is committed that would have the power and authority to take cognizance of the offence in question.
- 7. Sections 178 and 179 are exceptions to the above rule and may be set out hereinunder:

"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."

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"179. Offence triable where act is done or consequence ensues.- When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued."

8. Section 178 creates an exception to the "ordinary rule" engrafted in Section 177 by permitting the courts in another local area where the offence is partly committed to take cognizance. Also if the offence committed in one local area continues in another local area, the courts in the latter place would be competent to take cognizance of the matter. Under Section 179, if by reason of the consequences emanating from a criminal act an offence is occasioned in another jurisdiction, the court in that jurisdiction would also be competent to take cognizance. Thus, if an offence is committed partly in one place and partly in another; or if the offence is a continuing offence or where the consequences of a criminal act result in an offence being committed at another place, the exception to the "ordinary rule" would be attracted and the courts within whose jurisdiction the criminal act is committed will cease to have exclusive jurisdiction to try the offence.

- 9. At this stage it may also be useful to take note of what can be understood to a continuing offence. The issue is no longer res integra having been answered by this court in State of Bihar v. Deokaran Nenshi (1972) 2 SCC 890. Para 5 may be usefully noticed in this regard.
 - "5. A continuing offence is one which is susceptible of continuance and is distinguishable from the one which is committed once and for all. It is one of those offences which arises out of a failure to obey or comply with a rule or its requirement and which involves a penalty, the liability for which continues until the rule or its requirement is obeyed or

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complied with. On every occasion that such disobedience or non-compliance occurs and reoccurs, there is the offence committed. The distinction between the two kinds of offences is between an act or omission which constitutes an offence once and for all and an act or omission which continues, and therefore, constitutes a fresh offence every time or occasion on which it continues. In the case of a continuing offence, there is thus the ingredient of continuance of the offence which is absent in the case of an offence which takes place when an act or omission is committed once and for all."

- 10. The question that has posed for an answer has nothing to do with the provisions of Section 178 (b) or (c). What has to be really determined is whether the exception carved out by Section 179 would have any application to confer jurisdiction in the courts situated in the local area where the parental house of the wife is located.
- 11. To answer the above question, one will have to look into the Statement of Objects and Reasons of the Criminal Law [2nd Amendment Act, 1983 (Act 46 of 1983)] by which Section 498A was inserted in the Indian Penal Code. The section itself may be noticed in the first instance:



"498A.Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purposes of this section, "cruelty" means

- (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
- (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."

12. Section 498A of the Indian Penal Code was introduced by the Criminal Law (second amendment) Act, 1983. In addition to the aforesaid amendment in the Indian Penal Code, the provisions of Sections 174 and 176 of the Code of Criminal Procedure, 1973 relating to inquiries by police in case of death by suicides and inquiries by magistrates into cause of such deaths were also amended. Section 198A was also inserted in the Code of Criminal Procedure with regard to prosecution of offences under Section 498A. Further by an amendment in the first schedule to the Cr.PC the offence under Section 498A was made cognizable and non-bailable. Of considerable significance is the introduction of Section 113A in the Indian Evidence Act by the Criminal Law (second amendment) Act, 1983 providing for presumption as to abetment of suicide by a married woman to be drawn if such suicide had been committed within a period of seven years from the date of marriage of the married woman and she had been subjected to cruelty. Section 113A is in the following term:



"113-A. Presumption as to abetment of suicide by a married woman.— When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

Explanation.— For the purposes of this section, "cruelty" shall have the same meaning as in section 498-A of the Indian Penal Code (45 of 1860)."

13. The object behind the aforesaid amendment, undoubtedly, was to combat the increasing cases of cruelty by the husband and the relatives of the husband on the wife which leads to commission of suicides or grave injury to the wife besides seeking to deal with harassment of the wife so as to coerce her or any person related to her to meet any unlawful demand for any property, etc. The above stated object of the amendment cannot be overlooked while answering the question arising in the present case. The

judicial endeavour must, therefore, always be to make the provision of the laws introduced and inserted by the Criminal Laws (second amendment) Act, 1983 more efficacious and effective in view of the clear purpose behind the introduction of the provisions in question, as already noticed.

"Cruelty" which is the crux of the offence under Section 498A IPC is 14. 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.
 - 17. All the appeals are disposed of in terms of the above.



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NEW DELHI; APRIL 09, 2019.