

ORDER BELOW EXH.31 IN RCC 131/2016

1] This private complaint presented by the complainant alleging that accused nos. 1 to 5 have committed the offences under section 498A, 323, 504 and 506 r/w 34 of the Indian Penal Code.

2] The accused nos. 1 to 5 have moved the present application for discharge under section 245 of the Criminal Procedure Code. It is contention of accused persons that alleged incident took place at Pune. Further all accused persons reside at Pune. Therefore, this court has no territorial jurisdiction to entertain this case as no consequences have ensued in jurisdiction of this court. Hence, prayed to allow the application.

3] Per Contra the complainant resisted this application by filing her say at Exh. 33 on the ground that the court has jurisdiction to try the present matter as accused no.1 had made phone calls to the complainant during her residence at Nilanga. Hence, prayed to reject the present application. States

4] Perused the application and say. Heard. The only gist of the application is that this court has no jurisdiction to inquire and try present case hence, accused persons be discharged from alleged offences. It is pertinent to note that there are cantena of caselaws of Hon'ble Supreme wherein it is held that courts at place where wife takes shelter after being driven out of her matrimonial house due to cruelty have jurisdiction to deal with cases under section 498A of the Indian Penal Code. Admittedly the complainant resides in Nilanga within jurisdiction of this court hence, this court has jurisdiction to inquire and try the present matter. Hence, there is no substance in this ground. The Ld advocate for accused relied on caselaws A] Priyank Mehta v/s State(National Capital Territory of Delhi)
B] Naresh Prasad Singh @ Naresh Singh v/s State of Bihar
C] Ajay Kr.Jain @ Ajay Kr. Kala@ ajay Kumar Jain (Kala) v/s State of Jharkhand
With all respects to ratio laid down by Hon'ble High Court in said caselaws but as the facts and circumstances of cited case and that of present case are different same are not applicable to the present case.

5] At the out set it is necessary to mention that matter is posted for evidence before charge. The complainant has not lead evidence under section 244 of Cr.P.C. hence, at this juncture it cannot be said that there is no case made out

against accused persons to discharge them from alleged offences. Infact from perusal of the complaint it prima facie appears that there are specific allegations against accused persons that they subjected the complainant to cruelty. Therefore, there is ground of presuming that offence has committed on basis of material on record. Hence, this application deserves to be rejected. Therefore, I pass the following order:-

ORDER

Application hereby stands rejected.

Date:- 01/10/2022.

(R.D. Kharate)
J.M.F.C. Nilanga