

**IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA**

Cr.M.M.O. No.12 of 2015

Judgment Reserved on: 06.07.2018

Date of decision: 10.08.2018

Yadwinder Singh & Others

....Petitioners

Versus

State of H.P. & Others

....Respondents

Coram

The Hon'ble Mr.Justice Sandeep Sharma,Judge.

Whether approved for reporting ?¹ Yes.

**For the Petitioner: Mr.R.K. Sharma, Senior Advocate with
Mr.Rakesh Kanoujia and Ms.Vidushi
Sharma, Advocates.**

**For Respondents 1&2: Mr.S.C. Sharma and Mr.Dinesh
Thakur, Additional Advocate Generals
with Mr.Amit Kumar Dhumal, Deputy
Advocate General.**

**For Respondent No.3: Mr.Ramakant Sharma, Senior
Advocate with Mr.Dinesh Bhatia,
Advocate.**

Sandeep Sharma,J.

By way of instant petition filed under Section 482 of the Code of Criminal Procedure (*for short Cr.P.C.*), a prayer has been made on behalf of the petitioners to quash FIR No.224, dated 7.10.2014, under Sections 498-A, 406, 506 read with Section 34 of the Indian Penal Code and consequent proceedings thereto.

¹ *Whether the reporters of Local Papers may be allowed to see the judgement?* Yes.

2. Before advertent to the factual matrix of the present case, it may be noticed that Mr.R.K. Sharma, learned Senior Counsel representing the petitioners, confined his challenge to the jurisdiction of the Police at Nalagarh or Baddi in the State of Himachal Pradesh to investigate into the allegations leveled in the above referred FIR. Mr.Sharma, while making his submissions, fairly submitted that in case this Court, after having perused material adduced on record, comes to the conclusion that Police of Nalagarh/Baddi, Himachal Pradesh has jurisdiction to investigate into allegations levelled into FIR, in that eventuality, other prayer made in the petition for quashing of FIR may also be considered. In view of aforesaid specific prayer/submission made by learned Senior Counsel representing the petitioners, this Court shall consider issue with regard to jurisdiction of Nalagarh/Baddi Police to investigate into the allegations levelled in the FIR at first instance and in case, it comes to the conclusion that Police Station, named as above, has jurisdiction, the second prayer made in the petition, as referred hereinabove, shall be examined accordingly.

3. In nutshell, facts of the case, for having bird's eye view, are that on 31.01.2013, an arranged marriage was solemnized between petitioner No.4 namely; Akashdeep and respondent No.3 namely; Nikita at Ropar, Punjab as per Sikh

rites (*hereinafter referred to as 'petitioner-husband & respondent-wife'*). It appears that immediately after marriage certain differences cropped up between the petitioner-husband and respondent-wife as well as their families and after shorter duration couple also lived separately from their parents in a separate house at Tara Singh Nagar, Jalandhar, Punjab (*for short 'Pb'*), however, they could not get along for long. On the basis of allegations of beatings, allegedly given by petitioner-husband and his parents to respondent-wife, complaint was lodged with the Police Authorities as well as Deputy Commissioner of Jalandhar (Pb), who subsequently referred the matter to Women Cell, Jalandhar (Pb). Allegedly on 4.8.2014, respondent-wife came to Nalagarh, whereafter her father got her medically examined at Chawla Hospital, Mohali on 5.8.2014. On 6.8.2014, respondent-wife again went back to her house at Jalandhar (Pb), however, by that time allegedly petitioner-husband had removed all the articles/things from her house. On 17.8.2014 and thereafter on 24.8.2014 Women Cell at Jalandhar (Pb) called both the petitioner-husband and respondent-wife for re-conciliation, but no progress could be made. Subsequently, on 27.8.2014, respondent-wife lodged a complaint with SHO, Police Station, Nalagarh, District Solan, Himachal Pradesh, which was forwarded to Women Cell, Baddi. Women Cell, Baddi, after having respondent-

wife medically checked, summoned all the petitioners. Since on 7.10.2014, petitioner-husband refused to arrive at amicable settlement, if any, with respondent-wife, respondent-wife lodged complaint, dated 7.10.2014 and got her statement recorded under Section 154 Cr.P.C., alleging therein ill treatment given by the petitioner-husband after marriage. She alleged in FIR that after solemnization of her marriage with petitioner-husband, she was repeatedly subjected to ill-treatment and harassment by the petitioners, while she was living with them in her matrimonial home at Jalandhar. Respondent-wife also alleged that petitioners, on various occasions, demanded money, jewellery etc. and despite having their demands fulfilled by her father, she was not only abused with filthy language, but was also given beatings. She further alleged that during pregnancy she had stomachache and her mother made her consume some medicines, as a consequence of which child in her womb died. She also alleged that repeatedly she was teased by saying that she has not brought appropriate dowry, whereas her younger sister-in-law has brought sufficient dowry with her. In the FIR, referred hereinabove, respondent-wife alleged that petitioners, named hereinabove, apart from causing physical and mental agony also gave her beatings and extended threats to do away with her life. On the basis of aforesaid statement recorded under Section 154 Cr.P.C.,

Police at Police Station, Nalagarh, registered FIR bearing No.224 against the petitioners under Sections 498-A, 406, 506 read with Section 34 IPC.

4. At this stage, it may be noticed that after lodging of aforesaid FIR (Annexure P-14), police allegedly recorded supplementary statement of respondent-wife under Section 161 Cr.P.C. dated 7.10.2014, which has been annexed as Annexure R-3 with reply of respondents No.1 & 2, wherein she alleged that she alongwith her mother Smt.Neelam and father Shailinder Singh remained present during investigation and on 26.8.2014 her husband Akashdeep Singh, father-in-law Yadwinder Singh, mother-in-law Ranjit Kaur and Devar (brother-in-law) Gaurav visited her parental house at Nalagarh and asked her that they will resolve the matter amicably by way of compromise, but, she told them that she has filed a complaint before the police and police shall settle the matter. Upon this, persons named in FIR got adamant and started hurling abuses on her and also extended threats to her to do away with her life. Subsequently, police got respondent-wife medically examined from Medical Officer, ESI Hospital, Jharmajri, Tehsil Baddi, District Solan, H.P., who, after conducting M.L.C. dated 22.8.2014, opined the alleged injury suffered by respondent-wife to be grievous and on the basis of aforesaid M.L.C., police added Section 325 IPC in the FIR.

Police, after completion of investigation in the aforesaid FIR, presented challan in the Court of learned Additional Chief Judicial Magistrate, Nalagarh, which is pending adjudication. ◇

5. Learned Senior counsel for the petitioners vehemently argued that there is/was no territorial jurisdiction with Police Station at Nalagarh to carry out the investigation into the allegations contained in FIR because bare reading of the contents of abovementioned FIR clearly reveals that none of the alleged incident of cruelty, criminal breach of trust and voluntary causing hurt, if any, had taken place at Nalagarh, as such, Police Station at Nalagarh had no jurisdiction to investigate into the FIR. In support of aforesaid arguments learned Senior Counsel invited the attention of this Court to Section 171 Cr.P.C. and also placed reliance upon judgment passed by the Hon'ble Apex Court in ***Amarendu Jyoti and Others vs. State of Chhattisgarh, (2014)12 SCC 362.*** Mr.Sharma, learned Senior Counsel further argued that otherwise also perusal of allegations contained in FIR nowhere suggests that case, if any, is made out against the petitioners under Sections 498-A, 406, 506 read with Section 34 IPC because there is no allegation that the petitioners ever raised demand for dowry. He further argued that though in the FIR, respondent-wife, has alleged that she was repeatedly teased on account of less

dowry brought by her, but there is nothing on record that she was subjected to cruelty as defined by Section 498-A of IPC by the petitioners.

6. Lastly, Mr.Sharma, while making this Court to peruse contents of FIR, made a serious attempt to persuade this Court to agree with his contention that no incident of beatings or maltreatment took place at Nalagarh, rather all alleged incidents, if are presumed to be correct, happened at Jalandhar prior to lodging of FIR at Nalagarh. Mr.Sharma further submitted that there is no explanation available on record that why respondent-wife forgot to mention about alleged hurling of abuses and extension of threats by the petitioners on 26.8.2014 at Nalagarh, while getting her first statement recorded under Section 154 Cr.P.C. on the basis of which FIR No.224 came to be registered against the petitioners. Mr.Sharma, while referring to the supplementary statement recorded by Police after lodging of FIR, contended that Police at Nalagarh is hand-in-glove with respondent-wife, who is a local resident of the area and she solely with a view to falsely implicate the petitioners in a case purposely got the supplementary statement recorded so that jurisdiction at Nalagarh is made out. Mr.Sharma further contended that there is no allegation, either in the impugned FIR or in other proceedings initiated by petitioner-husband in different Courts at Nalagarh, that petitioners kept on

harassing her even after her leaving Jalandhar and, as such, there was no occasion for police at Nalagarh to take cognizance of the contents of allegations contained in the FIR. Mr.Sharma forcefully contended that dispute, if any, between petitioner-husband and respondent-wife is purely matrimonial and respondent-wife, solely with a view to teach lesson to the petitioner-husband as well as her family members i.e. petitioners No.1 to 3, has concocted false story and petitioners have been falsely implicated in the case. While referring to the MLC, adduced on record by the police to conclude that petitioner-husband was given beatings at Jalandhar, Mr.Sharma contended that alleged incident had occurred on 3.8.2014 whereafter admittedly respondent-wife appeared before Women Cell at Jalandhar and no such incident was ever reported, hence no much importance can be attached to such MLC, which was subsequently obtained after 23 days of the alleged incident. With the aforesaid submissions, Mr.Sharma prayed that FIR lodged by police of Nalagarh as well as consequent proceedings pending in the Court at Nalagarh may be quashed and set aside.

7. While refuting the aforesaid submissions having been made by Mr.R.K.Sharma, learned Senior Counsel representing the petitioners, Mr.Ramakant Sharma, learned Senior Counsel, representing respondent-wife (respondent No.3 herein), contended that in view of the contents of the

FIR, Police of Police Station, Nalagarh, rightly investigated the matter and lodged FIR against the petitioners. Mr.Sharma further argued that a clear cut case under Sections 498-A, 406, 506, 325 read with Section 34 IPC is made out against the petitioners.

8. While referring to the allegations contained in FIR., Mr.Ramakant Sharma argued that though initial statement recorded under Section 154 Cr.P.C., on the basis of which formal FIR came to be lodged against the petitioners, itself reveals the commission of offence at Nalagarh, but even otherwise supplementary statement recorded on the same day clearly suggests that petitioners not only hurled abuses to the respondent-wife at Nalagarh, rather, while leaving her house, they extended threats to do away with her life and, as such, FIR rightly came to be lodged at Police Station Nalagarh.

9. While refuting the submissions of learned Senior Counsel that no case, if any, is made out against the petitioners under Section 498-A, Mr.Ramakant Sharma, strenuously argued that it is quiet apparent from the contents of FIR that respondent-wife specifically alleged against the petitioners that she was repeatedly teased and harassed by the petitioners on account of bringing less dowry and, as such, police rightly inserted Section 498-A in the FIR. While making this Court to peruse supplementary

statement recorded under Section 161 Cr.P.C. of the respondent-wife, Mr.Sharma argued that the petitioners continued to commit offence punishable under aforesaid Sections even after respondent-wife had left her matrimonial house at Jalandhar and, as such, even on that account also Police at Nalagarh is/was well within its right to take cognizance of the above allegations contained in the FIR.

10. Lastly, Mr.Sharma contended that since pursuant to investigation conducted by the Police at Nalagarh in FIR No.224, challan stands filed in the competent Court of law at Nalagarh, this Court may not accede to prayer of quashing made on behalf of petitioners while exercising its inherent jurisdiction under Section 482 Cr.P.C. Mr.Sharma further argued that though this Court enjoys vast powers under Section 482 Cr.P.C., but such powers are required 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. He further submitted that exercise of inherent powers should not be exercised to stifle a legitimate prosecution.

11. Mr.Sharma argued that supplementary statement and evidence collected by police during investigation makes it amply clear that the offence under Section 498A IPC is made out against the petitioners and it is not necessary that there should be demand of dowry for

the purpose of attracting provision of Section 498A IPC as has been held by the Hon'ble Apex Court in ***K.V. Prakash Babu vs. State of Karnataka, (2017)11 SCC 176*** and ***Bhaskar Lal Sharma and Another vs. Monica and Others, (2014)3 SCC 383***.

12. I have heard learned counsel for the parties and gone through the record of the case.

13. As has been noticed hereinabove, this Court at first instance shall consider issue with regard to jurisdiction of Nalagarh/Baddi Police to investigate into allegations contained in the FIR.

14. In nutshell case, as projected by the petitioners, is that the Police Station, Nalagarh has/had no territorial jurisdiction to investigate the allegations levelled in the impugned FIR and, as such, consequent action, if any, pursuant to same, deserves to be quashed and set aside.

15. Before ascertaining the correctness and merit of submissions made on behalf of the respective parties, it would be profitable to take note of the following provisions of law:-

"11. Sections 177, 178 and 181 of Code of Criminal Procedure read as under:

**"177. Ordinary place of inquiry and trial.--
Every offence shall ordinary 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.

181. Place of trial in case of certain offences:—

(1) Any offence of being a thug, or murder committed by a thug, of dacoity, of dacoity with murder, of belonging to a gang of dacoits, or of escaping from custody, may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the accused person is found.

(2) Any offence of kidnapping or abduction of a person may be inquired into or tried by a Court within whose local jurisdiction the person was kidnapped or abducted or was conveyed or concealed or detained.

(3) Any offence of theft, extortion or robbery may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the stolen property which is the subject of the offence was possessed by any person committing it or by any person who received or retained such property knowing or having reason to believe it to be stolen property.

(4) Any offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by

a Court within whose local jurisdiction the offence was committed or any part of the property which is the subject of the offence was received or retained, or was required to be returned or accounted for, by the accused person.

(5) Any offence which includes the possession of stolen property may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the stolen property was possessed by any person who received or retained it knowing or having reason to believe it to be stolen property."

16. Close scrutiny of aforesaid provisions of law clearly suggests that Section 177 Cr.P.C. lays down a general rule with regard to place where a case can be inquired into and tried by a Court within whose local jurisdiction it was committed, whereas Sections 178 and 181 Cr.P.C. are exception to the aforesaid general rule contained in Section 177 Cr.P.C. Sub-section (c) of Section 178 Cr.P.C. provides that where an offence is a continuing one, and continues to be committed in more local areas than one, it may be inquired into or tried by a Court having jurisdiction over any of such local areas. Sub-section (4) of Section 181 Cr.P.C. lays down that any offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or any part of the property which is the subject of

the offence was received or retained, or was required to be returned or accounted for, by the accused person.

17. In the case at hand, bare perusal of FIR lodged by respondent-wife clearly suggests that all the alleged incidents with respect to cruelty, voluntary causing hurt and breach of trust, had allegedly occurred at Jalandhar (Pb) and not at Nalagarh (HP). Similarly, cruelty and humiliating treatment, alleged to have been given by the petitioner-husband to respondent-wife on account of bringing less dowry, is also alleged to have taken place at her matrimonial home at Jalandhar (Pb) and not at Nalagarh (HP). FIR in question nowhere reveals that demands of money, gifts and jewellery were ever made at Nalagarh, rather as per own case set up by respondent-wife she was allegedly given beatings by her husband and other family members at Jalandhar and subsequently the matter on the complaint of respondent-wife came to be referred to the Women Cell at Jalandhar. As per contents of FIR, on 17.8.2014 and thereafter on 24.8.2014, Women Cell at Jalandhar, called both the petitioner-husband and respondent-wife for reconciliation and subsequently on 27.8.2014, respondent-wife lodged complaint with SHO, Police Station, Nalagarh, which ultimately came to be forwarded to Women Cell, Baddi. Though respondent-wife has alleged in the FIR that on various occasions, petitioners demanded money and

jewellery and abused her, but all such alleged incidents allegedly happened at Jalandhar (Pb) and not at Nalagarh (HP). Respondent-wife also alleged in the FIR that during pregnancy, she had stomach-ache and her mother made her consume some medicines, as a consequence of which child in her womb died, but, such incident, if any, also happened at Jalandhar. There is no narration of incident, if any, occurred at Nalagarh. Respondent-wife has alleged that on account of beatings given by her husband to her at Jalandhar, her father got her medically examined at Chawla Hospital, Mohali on 5.8.2014 and Women Cell, Baddi (HP), taking note of aforesaid alleged incident of beatings, which had happened at Jalandhar (Pb), got respondent-wife medically examined by Medical Officer in Himachal Pradesh and thereafter added Section 325 IPC in the FIR.

18. Having carefully perused the contents of FIR lodged with Police Station, Nalagarh, dated 7.8.2014, this Court is persuaded to agree with contention of Shri R.K. Sharma, learned Senior Counsel representing the petitioner-husband, that since none of the alleged incident of cruelty, criminal breach of trust and voluntary causing hurt had taken place at Nalagarh and, as such, Nalagarh Police had no jurisdiction to investigate into the FIR. True, it is, that respondent-wife subsequently on 7.10.2014, got her supplementary statement recorded under Section 161

Cr.P.C., (Annexure R-3, annexed with the reply of respondents No.1 and 2), alleging therein that on 26.8.2014 her husband Akashdeep Singh, father-in-law Yadwinder Singh, mother-in-law Ranjit Kaur and Devar (brother-in-law) Gaurav visited her parental house at Nalagarh and asked her to resolve the matter amicably by way of compromise, but, when she told them that she has filed complaint before the police, they got adamant and started hurling abuses on her and also extended threats to her to do away with her life. But, now question, which remains to be adjudicated, is whether allegations contained in supplementary statement of respondent-wife, recorded under Section 161 Cr.P.C., can be read in continuation to FIR dated 7.10.2014. Admittedly respondent-wife in her initial statement under Section 154 Cr.P.C. chose not to allege that on 26.8.2014, her husband Akashdeep Singh, father-in-law Yadwinder Singh, mother-in-law Ranjit Kaur and Devar (brother-in-law) Gaurav, hurled abuses and extended threats to her at Nalagarh. Needless to say, investigating agency can make addition or deletion in FIR, on the basis of investigation, and, as such, there appears to be no force in the arguments of Shri R.K. Sharma, learned Senior Counsel, that supplementary statement recorded under Section 161 Cr.P.C. cannot be read as a part of FIR, dated 7.10.2014, filed at the behest of respondent-wife at Nalagarh. Careful perusal of record,

especially statement of parents of respondent-wife recorded at the time of lodging FIR on 7.10.2014, nowhere suggests that alleged incident of 26.8.2014 was ever reported to the police at first instance, even if, for the sake of arguments, it is presumed and accepted that respondent-wife forgot to mention aforesaid alleged incident of 26.8.2014, while lodging FIR, dated 7.10.2014, but, it cannot be accepted that parents of respondent-wife, whose statements were also recorded at the time of lodging FIR on 7.8.2014, also inadvertently failed to state with regard to alleged incident of 26.8.2014. Documents adduced on record, especially reply/status report filed by investigating agency, while opposing bail of bail petitioners, nowhere suggests that alleged incident, if any, happened/occurred on 26.8.2014 was ever brought to the notice of Court, who was dealing with the application for grant of bail made on behalf of the petitioners. Apart from above, there is no mention, if any, of aforesaid incident of 26.8.2014 in the other proceedings initiated by respondent-wife against the petitioner-husband under Protection of Women from Domestic Violence Act 2005 and under Section 125 Cr.P.C. for maintenance. Even in the statement recorded under Section 161 Cr.P.C., respondent-wife simply alleged that on 26.8.2014, she was extended threats and hurled abuses by the petitioners, but there is no allegation that the petitioners demanded dowry and when

their demand was not fulfilled, they insulted her, rather respondent-wife has stated that the petitioners asked her to get the dispute settled amicably.

19. Having carefully perused the contents of the FIR including supplementary statement recorded under Section 161 Cr.P.C. of respondent-wife, dated 7.10.2014, this Court has no hesitation to conclude that Police of Police Station, Nalagarh, has/had no jurisdiction to conduct investigation of allegations as recorded in FIR because all the alleged incidents, as narrated in the FIR, actually occurred/happened at Jalandhar and not at Nalagarh and it is only Police Station at Jalandhar, who has/had the jurisdiction to conduct investigation, pursuant to complaint, if any, lodged by respondent-wife at Jalandhar (Pb). At this stage, it would be appropriate to place reliance upon judgment rendered by Hon'ble Apex Court in **Amarendu Jyoti's** case *supra*, wherein it has held as under:-

"5. Aggrieved by the rejection of the application Under Section 482 of the Code, the Appellants have approached this Court by way of special leave to appeal. The main contention on behalf of the Appellants was that the F.I.R. did not disclose a continuing offence. The offence, if any, was alleged to have been committed only at Delhi and there was no question of any offence having been committed after Respondent 2 went to stay at Ambikapur. The learned counsel for the appellants relied on the decision of this Court in Manish Ratan v. State of M.P., (2007)1 SCC 262.

6. *In Manish Ratan case, in the complaint, the incident was said to have taken place in Jabalpur. The wife had left her matrimonial house and started residing at Datia. The criminal revision filed by the accused, questioning the jurisdiction of the Court at Datia, was dismissed opining that the offence was a continuing one, and therefore, the Datia Court had jurisdiction to take cognizance. The High Court held that the Court at Datia also has jurisdiction to try the case since the harassment to the wife continued at the place where she was residing with her father "since she was forced to live at her father's place on account of the torture of the in-laws and as such it can safely be said that there was also a mental cruelty." This conclusion of the High Court was dubbed as curious by this Court since the High Court found earlier that "there is nothing in the complaint to show that any maltreatment was given to the Appellant at Datia. The allegations, which I may repeat here, are that the maltreatment was given within a specific period at Jabalpur." After looking at the decided cases on the point i.e. Sujata Mukherjee v. Prashant Kumar Mukherjee, (1997)5 SCC 30, State of Bihar v. Deokaran Nenshi, (1972)2 SCC 890, Y. Abraham Ajith v. Inspector of Police, (2004)8 SCC 100 and Ramesh v. State of T.N., (2005)3 SCC 507, this Court held that the order of the High Court was unsustainable, and therefore, set it aside. It is not only that in the interest of justice, while setting aside the order of the High Court, this Court also directed the transfer of the criminal case pending in the Court of the Chief Judicial Magistrate, Datia, where the wife was staying with her father to the Court of the Judicial, Jabalpur (vide para 18).*
7. *Relying on the judgment of this Court in Manish Ratan case, the learned counsel for the appellants contended that the offence in the present case cannot be considered to be a continuing offence, if any, and must be taken to have been complete at Delhi and no cause of action can be said to have arisen at Ambikapur. As must necessarily be, the application of law and the consequences must vary from case to case.*

8. **The core question thus is whether the allegations made in the FIR constitute a continuing offence.**

9. **We find from the FIR that all the incidents alleged by the complainant in respect of the alleged cruelty are said to have occurred at Delhi. The cruel and humiliating words spoken to the 2nd respondent, wife by her husband, elder brother-in-law and elder sister-in-law for bringing less dowry are said to have been uttered at Delhi. Allegedly, arbitrary demands of lakhs of rupees in dowry have been made in Delhi. The incident of beating and dragging Respondent 2 and abusing her in filthy language also are said to have taken place at Delhi. Suffice it to say that all overt acts, which are said to have constituted cruelty have allegedly taken place at Delhi.**

10. **The allegations as to what has happened at Ambikapur are as follows:**

"No purposeful information has been received from the in-laws of Kiran even on contacting on telephone till today. They have been threatened and abused and two years have been elapsed and the in-laws have not shown any interest to call her to her matrimonial home and since then Kiran is making her both ends meet in her parental home. To get rid of the ill-treatment and harassment of the in-laws of Kiran, the complainant is praying for registration of an FIR and request for immediate legal action so that Kiran may get appropriate justice."

11. **We find that the offence of cruelty cannot be said to be a continuing one as contemplated by Sections 178 and 179 of the Code. We do not agree with the High Court that in this case the mental cruelty inflicted upon Respondent 2 "continued unabated" on account of no effort having been made by the appellants to take her back to her matrimonial home, and the threats given by the appellants over the telephone. It might be noted incidentally that the High Court does not make reference to any particular piece of evidence regarding the threats said to have been given by the appellants over the telephone. Thus, going by the complaint, we are of the view that it cannot be held that the**

Court at Ambikapur has jurisdiction to try the offence since the appropriate Court at Delhi would have jurisdiction to try the said offence. Accordingly, the appeal is allowed."

20. Applying the aforesaid exposition of law laid down by the Hon'ble Apex Court in **Amarendu Jyoti's** case *supra*, argument advanced by Mr. Ramakant Sharma, learned Senior Counsel representing the respondent-wife, that alleged offence of cruelty is continuing one, deserves outright rejection. Contention of Shri Ramakant Sharma, that bare perusal of supplementary statement of respondent-wife recorded under Section 161 Cr.P.C. suggests that petitioners continued to commit offence punishable under the aforesaid provisions, is not at all tenable because there is no mention, if any, with regard to demand of dowry, beatings and criminal breach of trust, if any, at Nalagarh, rather contents of FIR suggest beyond doubt that all the alleged incidents, as narrated in the FIR in question, allegedly happened at Jalandhar.

21. As has been noticed hereinabove, even if, it is presumed that the respondents-wife had suffered fracture on account of beatings given by her husband, alleged incident also happened at Jalandhar and not at Nalagarh. Mere medical examination of respondent-wife within the territorial jurisdiction of Nalagarh Police shall not confer any territorial jurisdiction upon the Police at Nalagarh to investigate the

incident, which actually happened beyond its territorial jurisdiction.

22. Similarly, this Court sees no reason to agree with the contention of Mr. Ramakant Sharma, learned Senior Counsel, that mental cruelty inflicted upon respondent-wife continued on account of persistent demand made by the petitioners to bring the dowry, because there is no whisper, if any, in the FIR that after departure of respondent-wife from Jalandhar to her parental house, demand, if any, was ever raised for dowry by the petitioners, rather respondent-wife in her supplementary statement categorically stated to the police that petitioners on 26.8.2014 had come to her house and asked her to settle the matter amicably. Though in her supplementary statement, she mentioned that the petitioners, while leaving her parental house, extended threats and hurled abuses to her, but there is no plausible explanation rendered on record by respondent-wife that what prevented her from narrating this incident to police at first instance while getting her statement recorded under Section 154 Cr.P.C., on the basis of which formal FIR came to be lodged at Nalagarh on 7.10.2014.

23. This Court has no hesitation to agree with the contention of Shri Ramakant Sharma, learned Senior Counsel, that since respondent-wife was mentally disturbed at the time of lodging FIR, she forgot to mention incident on

26.8.2014, but, as has been noticed above, there is nothing in the statement of parents of respondent-wife, recorded pursuant to lodging of FIR on 7.10.2014, with regard to alleged incident of 26.8.2014, and, as such, there appears to be some force in the arguments of Mr.R.K Sharma, learned Senior Counsel for the petitioners that Police at Nalagarh, solely with a view to have jurisdiction to inquire into the contents of FIR, dated 7.10.2014, purposely got the supplementary statement of respondent-wife recorded after lodging of FIR on 7.10.2014. Even if it is presumed to be correct that on 26.8.2014 petitioners had hurled abuses or extended threats to the respondent-wife, case, if any, could be registered against the petitioners under Section 506 read with Section 34 IPC at Nalagarh and not under Section 498-A, 406 325 IPC.

24. Since no specific allegations are contained in the FIR with regard to demand of dowry by the petitioners at Nalagarh, no case could be registered against the petitioners under Section 498-A IPC at Police Station, Nalagarh. So far as offence under Section 406 IPC is concerned, it is evident from the perusal of FIR that there is no allegation that any article, given at the time of marriage, was entrusted/given to the petitioners at Nalagarh. It is also not the case of respondent-wife that dowry articles etc. entrusted to the petitioners at Jalandhar were promised to be returned back

at Nalagarh or were demanded to be returned back at Nalagarh. As far as commission of offence, if any, under Section 325 IPC is concerned, which subsequently came to be added in FIR, at the cost of repetition, it may be stated that incident of beatings, in which respondent-wife allegedly suffered grievous injury, had allegedly happened/occurred at Jalandhar, as per own statement of respondent-wife and as such police at Nalagarh has/had no jurisdiction to register a case against the petitioner-husband on this account also at police station, Nalagarh(HP).

25. Mr. Ramakant Sharma, learned Senior Counsel representing the respondent-wife, in support of his contention that in view of allegations contained in FIR as well as supplementary statement made by the respondent-wife on the same day, Police at Nalagarh had jurisdiction to investigate the matter, placed reliance upon the following judgments:-

- (i) ***Kartar Singh vs. State of Punjab, AIR 1977 SC 349, (Para-6).***
- (ii) ***Sunita Kumari Kashyap vs. State of Bihar and Another, (2011)11 SCC 301 (Para-17).***
- (iii) ***Y.Abraham Ajith and Others vs. Inspector of Police, Chennai and Another, (2004)8 SCC 100 (para-8).***
- (iv) ***State of Madhya Pradesh vs. Suresh Kaushal and another, 2002 Crl.L.J. 217 (paras 6 & 7).***

26. Mr.Sharma further contended that perusal of FIR as well as supplementary statement of respondent-wife made on 7.10.2014 and evidence collected by police during investigation makes it amply clear that offence under Section 498-A IPC is made out against the petitioners and as such police at Nalagarh had jurisdiction to look into the allegations leveled by the respondent-wife. He further argued that it is not necessary that there should be demand of dowry for the purpose of attracting provisions of Section 498-A IPC, as has been held by Hon'ble Apex Court in the judgments reported in ***K.V. Prakash Babu vs. State of Karnataka, (2017)11 SCC 176*** and ***Bhaskar Lal Sharma and Another vs. Monica and Others, (2014)3 SCC 383***.

27. Before advertng to the aforesaid law relied upon by learned Senior Counsel representing the respondent-wife, it may be observed that at this stage Court is not considering sustainability of charge, if any, and allegation against the petitioners with regard to commission of offence, if any, under Section 498-A, 406 and 506 IPC, rather endeavour of Court is to explore answer to the question whether police at Nalagarh has/had jurisdiction to investigate into the allegations contained in the FIR lodged at the behest of respondent-wife and whether Court at Nalagarh has/had jurisdiction to continue with the proceedings based upon the investigation carried out by the

Police at Nalagarh, pursuant to FIR dated 7.10.2014 lodged by respondent-wife.

28. Having carefully perused facts of the case before Hon'ble Apex Court in case reported in **Kartar Singh's** case *supra*, this Court is of the view that the same are not applicable in the present facts and circumstances of the case. As has been already observed above, it is always open for investigating agency to take into consideration subsequent developments/facts, if any, collected during investigation, but question before this Court is that what prevented respondent-wife i.e. complainant from disclosing facts which were otherwise in her knowledge at the time of lodging FIR. True, it is, that one can forget mentioning certain facts at the time of lodging first report, but as has been observed in the earlier part of the judgment that it is not only respondent-wife who forgot to mention with regard to alleged incident of 26.8.2014, rather her parents, who also in their statements recorded at the time of lodging FIR on 7.10.2014 failed to mention factum with regard to alleged incident of 26.8.2014, wherein petitioners had allegedly hurled abuses and extended threats to respondent-wife. Otherwise also Hon'ble Apex Court, in the case *supra*, has not returned specific finding that every supplementary statement recorded by the complainant after lodging of FIR is required to be taken into consideration, rather in the case

before the Hon'ble Apex Court facts were altogether different, wherein complainant had forgot to mention the name of driver, who was also present at the site of occurrence at the time of alleged incident and as such his name was subsequently disclosed by the complainant in her supplementary statement.

29. Similarly, judgment rendered by Hon'ble Apex Court in **Sunita Kumari Kashyap's** case *supra*, is also not applicable in the present case because in that case complainant-wife had specifically alleged that while she was in her matrimonial house at Ranchi and was pregnant, she was forcibly left at her parental house at Gaya by her husband, who thereafter continued to harass her. Complainant also alleged that even after birth of child, respondent-husband continued to harass her at Gaya by raising new demand that unless her father gives his house at Gaya to him she will not be taken to Gaya. Hon'ble Apex Court having perused record, more particularly complaint filed on behalf of the wife, arrived at a conclusion that there was ill-treatment and cruelty at the hands of her husband and his family members at the matrimonial home at Ranchi and because of their actions and threat she was forcibly taken to her parental home at Gaya where she initiated the criminal proceedings against them for offences punishable under Sections 498A and 406/34 IPC and Sections 3 and 4

of the D.P. Act. Hon'ble Apex Court, in view of specific assertion by the appellant-wife about the ill-treatment and cruelty at the hands of the husband and his relatives at Ranchi and of the fact that because of their action, she was taken to her parental home at Gaya by her husband with a threat of dire consequences for not fulfilling their demand of dowry, arrived at a conclusion that in view of Sections 178 and 179 of the Code, the offence in this case was a continuing one having been committed in more local areas and one of the local areas being Gaya, the learned Magistrate at Gaya has jurisdiction to proceed with the criminal case instituted therein. Hon'ble Apex Court further held that the offence was a continuing one and the episode at Gaya was only a consequence of continuing offence of harassment or ill-treatment meted out to the complainant. Hon'ble Apex Court, having perused allegations of the complainant, held that it is a continuing offence of ill-treatment and humiliation meted out to the appellant at the hands of all the accused persons, therefore, undoubtedly clause (c) of Section 178 of the Code is clearly attracted.

30. However, facts of the case at hand are clearly distinguishable. In the case at hand allegations contained in FIR that respondent-wife was ill-treated and harassed by petitioners for bringing less dowry, but definitely there is nothing in the FIR that complainant/respondent-wife was ill-

treated by her husband at her parental house and even after her departure from matrimonial house, all the petitioners kept on raising demand for dowry, rather supplementary statement made by the respondent-wife itself suggests that after registration of FIR at Nalagarh, petitioners made an attempt for amicable settlement but same was not acceptable to the respondent-wife. In the case *supra* before Hon'ble Apex Court complainant-wife was able to show that alleged offence of cruelty continued not at place called Gaya rather at a number of places, but as has been discussed herein above, respondent-wife in the case at hand has not been able to show commission of offence, if any, at Nalagarh.

31. In the other case relied upon on behalf of the respondents i.e. ***State of Madhya Pradesh vs. Suresh Kaushal and another, 2002 CrI.L.J. 217***, allegation was that wife was subjected to physical torture when she was in the family way and she had to be taken back to her parental house at Jabalpur. The miscarriage took place while she was at Jabalpur. Section 313 IPC came to be included in the charge as the cumulative effect of all the allegations ending with the consequence of the miscarriage which took place at Jabalpur. High Court at Jabalpur having perused record arrived at a conclusion that the Court at Jabalpur has no jurisdiction at all for trying the case. Learned Single Judge dealing with the case observed that alleged offence under

Section 313 IPC was committed outside the city of Jabalpur and as such courts at Jabalpur therefore, have no jurisdiction to take cognizance of the aforesaid offences against the Petitioners. Learned Single Judge further observed that the competency of the Court to take jurisdiction is determined by the place in which the offence is alleged to have been committed and held that it is settled law that the Magistrate, within whose local jurisdiction the offence is alleged to have been committed is authorized to take cognizance, and either to try the case himself or to commit it to the Court of Sessions. Learned Single Judge further arrived at a conclusion that since the alleged offence has not been committed within the local jurisdiction of the Magistrate at Jabalpur, the learned Judge to whom the case has been committed by the learned Magistrate of Jabalpur has no power to try the petitioners for the alleged offences which were allegedly committed wholly outside the local limits of his jurisdiction. However, Hon'ble Apex Court, while interpreting provisions contained in Section 179 Cr.P.C., observed that the said section contemplates two courts having jurisdiction and the trial is permitted to take place in any one of those two Courts. One is the court within whose local jurisdiction the act has been done and the other is the court within whose local jurisdiction the consequence has ensued. Hon'ble Apex Court further held that when the

allegation is that the miscarriage took place at Jabalpur it cannot be contended that the court at Jabalpur could not have acquired jurisdiction as the acts alleged against the accused took place at Indore. Hon'ble Apex Court further held that apart from above, when the High Court found that the courts at Jabalpur had no jurisdiction, the course adopted by the High Court by quashing the entire criminal proceedings is not permissible in law, rather the High Court should have transferred the case to the court which it found to be vested with jurisdiction and observed that we cannot appreciate the course adopted by the High Court in quashing the whole criminal proceedings against the accused.

32. Having carefully perused facts of the case which were before Hon'ble Apex Court as well as ratio laid down by Hon'ble Apex Court, in the case *supra* this Court is of the view that same is not applicable in the present facts and circumstances wherein admittedly there is no specific allegation, if any, with regard to incident of cruelty, criminal breach of trust and ill-treatment by the petitioners at Nalagarh, rather, respondent-wife of her own volition left her matrimonial home at Jalandhar and came back to her parental house at Nalagarh.

33. In the case at hand allegation contained in the FIR itself suggests that complainant herself left the house of the husband on 4.8.2014 on account of alleged dowry

demand made by the husband and other family members. As noticed above, there is not a whisper about allegation of any dowry demand made at Nalagarh and, as such, logic of Section 178(c) Cr.P.C. cannot be applied. Hon'ble Apex Court in **Y.Abraham Ajith's** case *supra*, reiterated the well established common law/Rules referred to in **Halsbury's Laws of England (Vol. IX para 83)** that the proper and ordinary venue for the trial of a crime is the area of jurisdiction in which, on the evidence, the facts occur and which is alleged to constitute the crime. The Hon'ble Apex Court in **Y.Abraham Ajith's** case *supra* has held as under:-

"8. Sections 177 to 186 deal with venue and place of trial. Section 177 reiterates the well-established common law rule referred to in Halsbury's Laws of England (Vol. IX para 83) that the proper and ordinary venue for the trial of a crime is the area of jurisdiction in which, on the evidence, the facts occur and which are alleged to constitute the crime. There are several exceptions to this general rule and some of them are, so far as the present case is concerned, indicated in Section 178 of the Code which read as follows:

"Section 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 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."*
9. *"All crime is local, the jurisdiction over the crime belongs to the country where the crime is committed", as observed by Blackstone. A significant word used in Section 177 of the Code is "ordinarily". Use of the word indicates that the provision is a general one and must be read subject to the special provisions contained in the Code. As observed by the Court in Purushottamdas Dalmia v. State of West Bengal, (AIR 1961 SC 1589), L.N.Mukherjee V. State of Madras (AIR 1961 SC 1601), Banwarilal Jhunjhunwalla and Ors. v. Union of India and Anr. (AIR 1963 SC 1620) and Mohan Baitha and Ors. v. State of Bihar and Anr. (2001 (4) SCC 350), exception implied by the word "ordinarily" need not be limited to those specially provided for by the law and exceptions may be provided by law on consideration or may be implied from the provisions of law permitting joint trial of offences by the same Court. No such exception is applicable to the case at hand.*
10. *As observed by this Court in State of Bihar v. Deokaran Nenshi and Anr. (AIR 1973 SC 908), continuing offence is one which is susceptible of continuance and is distinguishable from the one which is committed once and for all, that it is one of those offences which arises out of the failure to obey or comply with a rule or its requirement and which involves a penalty, liability continues till compliance, that on every occasion such disobedience or non-compliance occurs or recurs, there is the offence committed.*
11. *A similar plea relating to continuance of the offence was examined by this Court in Sujata Mukherjee (Smt.) v. Prashant Kumar Mukherjee (1997 (5) SCC 30). There the allegations related to commission of alleged offences punishable under Section 498-A, 506 and 323 IPC. On the factual background, it was noted that though the dowry demands were made earlier the husband of the complainant went to the place where complainant was residing and had assaulted*

her. This Court held in that factual background that clause (c) of Section 178 was attracted. But in the present case the factual position is different and the complainant herself left the house of the husband on 15.4.1997 on account of alleged dowry demands by the husband and his relations. There is thereafter not even a whisper of allegations about any demand of dowry or commission of any act constituting an offence much less at Chennai. That being so, the logic of Section 178 (c) of the Code relating to continuance of the offences cannot be applied.

12. *The crucial question is whether any part of the cause of action arose within the jurisdiction of the Court concerned. In terms of Section 177 of the Code it is the place where the offence was committed. In essence it is the cause of action for initiation of the proceedings against the accused.*
13. *While in civil cases, normally the expression "cause of action" is used, in criminal cases as stated in Section 177 of the Code, reference is to the local jurisdiction where the offence is committed. These variations in etymological expression do not really make the position different. The expression "cause of action" is therefore not a stranger to criminal cases.*
14. *It is settled law that cause of action consists of bundle of facts, which give cause to enforce the legal inquiry for redress in a court of law. In other words, it is a bundle of facts, which taken with the law applicable to them, gives the allegedly affected party a right to claim relief against the opponent. It must include some act done by the latter since in the absence of such an act no cause of action would possibly accrue or would arise."*

34. Hon'ble Apex Court in the judgment referred hereinabove has categorically held that it is settled law that cause of action consists of bundle of facts, which give cause to enforce the legal inquiry for redress in a Court of law. In

other words, it is a bundle of facts, which taken with the law applicable to them, gives the allegedly affected party a right to claim relief against the opponent. It must include some act done by the latter since in the absence of such an act no cause of action would possibly accrue or would arise. Most importantly in the judgment referred above Hon'ble Apex Court has categorically held that in terms of Section 177, it is the place where the offence was committed and in essence it is the cause of action for initiation of the proceedings against the accused. In the case at hand, there is not even a whisper of allegation about the demand of dowry much less at Nalagarh, as such, this Court has no hesitation to conclude that the logic of Section 178(c) of the Code relating to continuance of the offences cannot be applied in the present facts and circumstances of the case.

35. Having closely examined/analyzed the facts of the case at hand, it is amply clear that exceptions to the general rule, as provided in Sections 178 and 182 Cr.P.C., are not applicable in the case in hand. Police Station at Nalagarh has/had no jurisdiction to conduct investigation of the allegations levelled in the impugned FIR. Jurisdiction, if any, to inquire into the contents as contained in FIR, is/was with police station at Jalandhar, as all the incidents happened/occurred at Jalandhar (Punjab) and not at Nalagarh (Himachal Pradesh). Since respondent-wife before

lodging FIR at Nalagarh had lodged complaint at Women Cell, Jalandhar, she could pursue the same at Jalandhar and definitely, on the basis of allegations contained in FIR in question lodged at Nalagarh, no case could be registered against the petitioners at Nalagarh.

36. As far as another contention of Shri Ramakant Sharma, learned Senior Counsel that since the proceedings, consequent to lodging of FIR in question at Nalagarh, are pending adjudication before competent Court of law at Nalagarh, the instant petition, is not maintainable, also deserves to be rejected because once it stands established on record that Police Station, Nalagarh, has/had no territorial jurisdiction to inquire into the contents of FIR lodged at the behest of respondent-wife, no consequential proceedings pursuant to the investigation carried out by Police at Nalagarh in the FIR can be allowed to sustain. Since, this Court has arrived at definite conclusion that Police has/had no territorial jurisdiction to investigate contents of impugned FIR, Court at Nalagarh is/was not competent to take cognizance of investigation/challan filed by the police and as such same also deserves to be quashed and set aside.

37. Reliance placed upon judgment of Hon'ble Apex Court in ***State of Bihar and another etc. etc. vs. Shri P.P. Sharma and another etc. etc., AIR 1991 SC 1260*** is wholly mis-placed and it does not fit into the present facts and

circumstances of the case and as such same cannot be applied.

38. In the case *supra*, Hon'ble Apex Court observed that mere allegations of mala-fide against the informant based on the facts after the lodging of the FIR were of no consequence and could not be made basis for quashing the proceedings. Hon'ble Apex Court further held that simply because the Investigating Officer, while acting bonafidely ruled out certain documents as irrelevant, cannot be ground to assume that he acted malafidely. No doubt, in the present case Hon'ble Apex Court held that when the police report under Section 173 Cr.P.C. is forwarded to the Magistrate after completion of investigation and the material collected by the investigating officer is under the gaze of judicial scrutiny, the High Court would do well to discipline itself not to undertake quashing proceedings at that stage in exercise of its inherent jurisdiction, but the aforesaid observation made by the Hon'ble Apex Court is altogether in different context and in peculiar facts and circumstances of the case.

39. In the case before Hon'ble Apex Court there were allegations of malafide against the informant and investigating officer and Hon'ble Apex Court held that the same cannot be basis for quashing the proceedings because non-annexing of certain documents being irrelevant by the investigating officer cannot be a ground to assume that he

acted malafidely. Hon'ble Apex Court, on the basis of material before it, arrived at a conclusion that the dominant purpose for registering the case against the respondents was to have an investigation done into the allegations contained in the FIR and in the event of there being sufficient material in support of the allegations to present the charge sheet before the court. Similarly, there is no material to show that the dominant object of registering the case was the character assassination of the respondents or to harass and humiliate them. Hon'ble Apex Court set aside the judgment passed by High Court of Patna, wherein it had quashed the proceedings. But, in the present case when it is quiet apparent that police at Nalagarh had no jurisdiction to look into the allegations contained in the FIR, consequential proceeding, if any, initiated pursuant to report presented under Section 173 Cr.P.C. by the police at Nalagarh cannot be allowed to sustain, hence aforesaid judgment relied upon by the learned Senior Counsel has no application. Had the Police at Nalagarh(HP) jurisdiction to look into the contents of FIR lodged at the behest of respondent-wife and on the basis of investigation carried out by the police challan was presented in the competent Court of law, definitely aforesaid judgment could be applied and it could be concluded that since challan stood filed, Court cannot interfere while exercising powers under Section 482 Cr.P.C. But in the

present case facts are otherwise as has been discussed hereinabove and as such this case has no application.

40. The Hon'ble Apex Court in **Shri P.P. Sharma's** case *supra* held as under:-

“33. The above order was brought to the notice of the Patna High Court but the High Court refused to be persuaded to adopt the same course. We are of the considered view that at a stage when the police report under S.173 Cr. P.C. has been forwarded to the Magistrate after completion of the investigation and the material collected by the investigating officer is under the gaze of judicial scrutiny, the High Court would do well to discipline itself not to undertake quashing proceedings at that stage in exercise of its inherent jurisdiction. We could have set aside the High Court judgment on this ground alone but elaborate argument having been addressed by the learned counsel for the parties we thought it proper to deal with all the aspects of the case.”

41. There cannot be any quarrel with the argument advanced by Mr. Ramakant Sharma, learned Senior Counsel that by now it is well settled that High Court while exercising power under Section 482 Cr.P.C. though has wide powers but those are 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. Mr. Sharma in support of aforesaid submission also placed reliance upon the judgment rendered by Hon'ble Apex Court in **Ghanshyam Sharma vs. Surendra Kumar Sharma and Others, (2014)13 SCC 401 (para-8), Suresh Chandra Swain vs.**

State of Orissa, 1988 Crl.L.J. 1175 (para-11(3)) and **Varala Bharath Kumar vs. State of Telangana and Another, (2017)9 SCC 413 (para-7)**. Since in all the judgments referred hereinabove similar principle of law has been laid down by the Hon'ble Apex Court, this Court would only be dealing with the latest judgment rendered by Hon'ble Apex Court in **Varala Bharath Kumar's** case *supra*.

42. In the aforesaid judgment Hon'ble Apex Court has held that extra ordinary power under Article 226 or inherent power under Section 482 of the Code of Criminal Procedure can be exercised by the High Court, either to prevent abuse of process of the court or otherwise to secure the ends of justice. Hon'ble Apex Court though in the aforesaid judgment has observed that while exercising power under Section 482 or under Article 226 in such matters, the court does not function as a Court of Appeal or Revision but held that inherent jurisdiction under Section 482 of the Code though wide has to be exercised sparingly, carefully or with caution and only when such exercise is justified by the tests specifically laid down under Section 482 itself. It is to be exercised *ex debito justitiae* to do real and substantial justice, for the administration of which alone courts exist. The Hon'ble Apex Court further held that the Court must be careful and should see that its decision in exercise of its power is based on sound principles. The inherent powers

should not be exercised to stifle a legitimate prosecution. But, on the top of everything, Hon'ble Court has categorically held that no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extra ordinary jurisdiction of quashing the proceedings at any stage. It would be profitable to take note of following paras of the aforesaid judgment:-

“6. It is by now well settled that the extraordinary power under Article 226 or inherent power under Section 482 of the Code of Criminal Procedure can be exercised by the High Court, either to prevent abuse of process of the court or otherwise to secure the ends of justice. Where allegations made in the First Information Report/the complaint or the outcome of investigation as found in the Charge Sheet, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out the case against the accused; where the allegations do not disclose the ingredients of the offence alleged; where the uncontroverted allegations made in the First Information Report or complaint and the material collected in support of the same do not disclose the commission of offence alleged and make out a case against the accused; where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, the power under Article 226 of the Constitution of India or under Section 482 of Code of Criminal Procedure may be exercised.

7. While exercising power under Section 482 or under Article 226 in such matters, the court does not function as a Court of Appeal or Revision. Inherent jurisdiction under Section 482 of the Code though wide has to be exercised sparingly, carefully or with caution

and only when such exercise is justified by the tests specifically laid down under Section 482 itself. It is to be exercised ex debito justitiae to do real and substantial justice, for the administration of which alone courts exist. The court must be careful and see that its decision in exercise of its power is based on sound principles. The inherent powers should not be exercised to stifle a legitimate prosecution. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceedings at any stage.

43. Before considering application of aforesaid law laid down by Hon'ble Apex Court in the present facts and circumstances of the case, it may be observed that in the case at hand this Court has not examined the material available on record with a view to ascertain the correctness of allegation contained in the FIR, rather attempt, if any, by this Court is to arrive at conclusion that "*whether, in view of allegation contained in the FIR, Police at Nalagarh has jurisdiction or not?*" In the earlier part of the judgment, it is made clear that second prayer for quashing of FIR would depend upon answer to the first question.

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.

45. Consequently, in view of above, present petition is allowed and the FIR dated 7.10.2014 as well as consequent proceedings are quashed and set aside, however, respondent-wife is at liberty to initiate action, if any, against the petitioners, on account of allegations contained in impugned FIR but at Jalandhar(Pb), either by lodging fresh FIR or by pursuing complaint filed by her at Women Cell Jalandhar.

46. Needless to say that this Court has only examined/analyzed material adduced on record by the respective parties to ascertain whether Police at Nalagarh has/had jurisdiction to investigate into contents of FIR and as such this Court may not be understood to have returned findings, if any, qua the sustainability of offence/charge, if any, made out against the petitioners under Sections 498-A, 406 and 506 IPC which shall be considered and decided by the Court of competent jurisdiction, if required and desired.

47. Interim order, if any, is vacated. All the miscellaneous applications are disposed of.

August 10, 2018
(aks)

(Sandeep Sharma)
Judge.