2022 INSC 648

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 903 OF 2022
(Arising out of SLP (CRL.) No. 6548 of 2019)

MS. P[1] xxx ……. APPELLANT(S)

VERSUS

STATE OF UTTARAKHAND & ANR. ……. RESPONDENT(S)

JUDGMENT

Dinesh Maheshwari, J.

Leave granted.

2. This appeal is directed against the order dated 25.09.2018 as passed by the High Court of Uttarakhand at Nainital in Criminal Revision Petition No. 42 of 2018 whereby, the High Court declined to interfere with the order dated 28.10.2017, as passed by the Sessions Judge, Chamoli in Sessions Trial No. 8 of 2017, discharging the accused-respondent No. 2 of the offence under Section 376 of the Indian Penal Code, 1860[2] on the ground of lack of territorial jurisdiction with liberty to the prosecution to proceed against the accused in the appropriate Court while also directing

1 Looking to the subject matter of this appeal, which involves the accusations pertaining to the offence of rape punishable under Section 376 of the Indian Penal Code, 1860, we have masked the identity of the appellant and substituted her name by the expression "Ms. P" in the title as also in the body of this judgment, wherever occurring.

The office shall take care while issuing the relevant copies to not disclose the identity of the appellant.

2 'IPC', for short.

transfer of the case in relation to the other offences under Sections 504 and 506 IPC to the Court of Judicial Magistrate First Class, Gairsain, District Chamoli.

3. The relevant background aspects and factual matrix of the case are not of much complications, but the operation of law, with regard to territorial jurisdiction for the offence pertaining to Section 376 IPC and segregation of charges, calls for examination in this appeal with reference to the question as to whether the said offence under Section 376 IPC and the other offences under Sections 504 and 506 IPC fall within the ambit of '*one series of acts so connected together as to form the same transaction*' for the purpose of trial together in terms of Section 220 of the Code of Criminal Procedure, 1973?[3]

4. The question above-mentioned carries the peculiarities of its own in the present case; and the peculiarities have got confounded with cursory disposal of revision petition by the High Court with an erroneous assumption as if it were a case of challenge to the acquittal of the accused-respondent No. 2. We are rather impelled to observe at the outset and with respect that, the impugned order of the High Court is a cryptic one, where neither the facts nor the relevant questions of law have gone into appropriate consideration; and the case of 'discharge' because of territorial jurisdiction has been treated by the High Court as that of 'acquittal'. This aspect of the matter has indeed formed a point of contention before us. In the ordinary course, we would have set aside the

3 'CrPC', for short.

order impugned and remanded the matter for reconsideration by the High Court but, looking to the subject-matter and the status of parties involved in this protracted litigation since the year 2016 as also looking to the fact that, after trial, the accused-respondent No. 2 has been acquitted of the said offences under Sections 504 and 506 IPC, we have considered it proper to deal with the relevant question on its merits in this appeal itself.

5. In the aforesaid backdrop, the relevant factual aspects could be summarised as follows:

5.1. The present case has its genesis in the proposed matrimonial alliance by way of engagement of the appellant and respondent No. 2, both being the residents of Village Dangidhar (Saliyana), Tehsil Gairsain, District Chamoli, Uttarakhand. Admittedly, they were engaged on 13.11.2015 at their village.

5.2. Put in a nutshell, the allegations of the appellant had been that after their engagement, she was invited by the respondent No. 2 to Delhi; and was subjected to sexual intercourse by respondent No. 2 against her wishes at Delhi in the month of February 2016. The appellant further alleged that the respondent No. 2, thereafter, made a demand of money and refused to marry her when the demand was not met; and later on, he hurled abuses on her and also threatened to kill. These aspects and other facts/allegations were specified in a complaint filed by the appellant under Section 156(3) CrPC before the Judicial Magistrate First Class, Gairsain, District Chamoli while complaining of inaction of police on the complaint

made by her mother. The learned Judicial Magistrate, after having gone through the complaint, formed an opinion in his order dated 21.01.2017 that the matter required investigation and, accordingly, directed the police station concerned to register the First Information Report[4] and keep the Court apprised of the investigation.

5.3. The contents of the complaint so made by the appellant, reproduced and reiterated by the learned Judicial Magistrate in his order dated 21.01.2017, which would specify the nature of accusations and the place/places of occurrence/occurrences, could be usefully extracted as under: -

> "The complaint alongwith affidavit and other documents, is filed by the complainant in this court seeking an order for registering a F.I.R. against accused Narender Sah. As per the complaint, the complainant is a resident of Tehsil Gairsain. The complainant – Ms. P d/o Sh. Rajeev Rawat r/o Dangidhar Tehsil Gairsain, Distt. Chamoli was engaged to Narender Sah s/o Sh. Dhan Singh Sah r/o village Dhargair Tehsil Gairsain, Distt Chamoli on 13.11.2015 as per Hindu Rights and Ceremonies at village Dhangidhar (Saliyana). It is thereafter stated that on 21.12.2016, the accused asked the complainant to come to Delhi for the purchase of clothes for marriage and threatened her that he would break the engagement in case she would not come. The complainant visited Delhi alongwith her cousin Tikka Singh. The accused met the complainant at Kashmiri gate. The complainant's cousin went to his relatives place from Kashmiri gate itself while the complainant went with the accused to his house at Khanpur. Thereafter from 21.02.2016 upto 24.02.2016, it is stated that the accused had sexual intercourse with the complainant against her wishes. It was stated by the accused that since they are engaged, they are now living as husband and wife. It is stated that the accused threatened the complainant that is she does not do things according to his wishes, he may change the matrimonial alliance. In the series of events the accused also told the complainant to bring Rs. 25lakh from her mother since the accused requires the same for construction of a house in New Delhi and that he will marry the complainant only if she gives him the money. Thereafter the complainant's mother, while referring to the aforesaid discussions

4 "FIR', for short.

> filed a complaint at P.S. Gairsain. It is stated that the accused came to the Police station and filed an affidavit on 01.11.2016 assuring that he will marry his fiancé Ms. P in December 2016. In the said affidavit, it has been accepted by the accused Narender Sah that he and Ms. P were engaged on 13.11.2015 and that on account of being busy due to his occupation, the accused would marry the complainant in December 2016. But thereafter he did not marry her and instead threatened her to kill her while hurling abuses at her. Thereafter the mother of the complainant Smt. Shakuntala Devi filed a complaint against the accused in P.S. Gairsain, Distt. Chamoli on 12.12.2016. Since no steps were taken against the accused by the P.S. Gairsain, Smt. Shakuntala Devi filed a complaint to the superintendent of police, Distt. Chamoli in a complaint letter dated 16.12.2016. It is stated that no steps were taken by the police against Narender Sah. Both the parties were also referred for counselling to women cell Gopeshwar but the counselling has failed. As per the complainant the accused is not ready to marry the complainant Ms. P and is still demanding Rs. 25 lakh whereas the accused, on the pretext of marriage has not only done engagement with Ms. P but also had sexual intercourse with her against her wishes, and yet is not marrying her."

5.4. In view of the directions aforesaid, FIR No. 3 of 2017 came to be registered at Police Station, Gairsain and after investigation, a charge-sheet was submitted in the Court of Judicial Magistrate First Class, Gairsain, District Chamoli for offences under Sections 376, 504 and 506 IPC; and in view of the involvement of offence under Section 376 IPC, the case was committed to the Court of Sessions Judge, Chamoli. The order passed by the learned Sessions Judge, Chamoli on the question of framing charge has given rise to the present dispute.

6. The Sessions Judge, Chamoli, took up the matter in Sessions Trial No. 8 of 2017 and arguments were heard for framing of charge, where it was, *inter alia*, contended on behalf of the accused-respondent No. 2 that the entire incident pertaining to the offence under Section 376 IPC, as per the allegation in the FIR as also in the statement of victim,

took place at Delhi which was beyond the territorial jurisdiction of the Court at Chamoli and, therefore, the Court was not competent to try the said offence.

6.1. In the impugned order dated 28.10.2017, the learned Sessions Judge agreed with the contentions so urged on behalf of the accused and held that the offence under Section 376 IPC, which had taken place at Delhi, was not a continuing one; and whatever threat was allegedly given by the accused to the victim, it did not constitute a kind of offence which could be said to be in the series of same transaction. Therefore, the learned Sessions Judge concluded that the accused was entitled to be discharged in relation to the offence under Section 376 IPC for want of territorial jurisdiction and, in sequel, also found it just and proper to remit the matter to the Court of Judicial Magistrate for trial of the remaining offences pertaining to Sections 504 and 506 IPC. The relevant part of the impugned order dated 28.10.2017 reads as under: -

> "6. In the light of rival arguments of the parties, I have gone through the entire material collected during the investigation. From the material collecting during the investigation it is clear that the engagement between the victim and accused person had taken place within the jurisdiction of District Chamoli but the incident of physical relationship or sexual intercourse between the victim and the accused person as alleged in the F.I.R and in the statements of victim recorded under Section 161 and 164 of the Cr.P.C. is found to be at Delhi. It is specifically alleged in the First Information Report that whatever physical relation was established between the victim and accused person was in the tenanted premises of accused at Khanpur, Delhi. The victim has also reiterated this fact in her statement recorded under Section 164 of the Cr.P.C that in the month of February, 2016 accused has called the victim at Delhi to introduce her to his Buwa and accused had come to receive her at Kashmirigate Bus Station at Delhi from where he took her to his rented premises and kept her there from

21.02.2016 to 24.02.2016. During this period the accused tried to commit rape upon her and when she resisted, he threatened to change the decision of marriage and then he made physical relation with the victim against her will. In her statement recorded under Section 164 of the Cr.P.C. the victim has also stated that on 23rd March, 2016 she again went to Delhi on the call of accused and at that time the accused made physical relationship twice with her consent which was given on the pretext of marriage. Therefore, from the evidence collected during the investigation it is clear that the place of occurrence of the alleged offence under Section 376 of the I.P.C is at Delhi. The offence of rape is not a continuing offence and whatever threat is alleged to have been given by the accused to the victim is on phone and is not a kind of offence which can be said to be in the series of transaction. Therefore, this Court does not possess territorial jurisdiction to try the offence against the accused under Section 376 of the I.P.C. Thus, the accused is liable to be discharged on this account. The rest allegations, which relate to Section 504 and 506 of the I.P.C., are not exclusively triable by the Court of Sessions for which the case of the accused can be transferred to the competent Court under Section 208 of the Cr.P.C for proceeding according to law.

ORDER

Accused Narendra Shah is discharged under Section 376 of the I.P.C on the ground of lack of territorial jurisdiction with the liberty to proceed prosecution against the accused in the appropriate Court.

The case is transferred to the Court of Judicial Magistrate, First Class, Gairsain, District- Chamoli under Section 208 of the Cr.P.C. as the remaining offences are not exclusively triable by the Court of Sessions for proceeding according to law.

Accused is directed to appear before the Judicial Magistrate, First Class, Gairsain, District- Chamoli on 22.11.2017 for argument on charge."

(emphasis supplied)

7. The order aforesaid was challenged by the appellant in the said Criminal Revision Petition No. 42 of 2018 before the High Court. Unfortunately, the High Court, in its impugned order dated 25.09.2018, chose to decide the matter in the absence of revisionist (i.e., the present appellant) and, without even taking into consideration the nature of order passed by the Sessions Judge, simply observed, rather rhetorically, that

in case of acquittal, even if two views were possible, the Appellate Court would not reverse the finding of acquittal unless the finding was perverse; and that there was no perversity, illegality and jurisdictional error in the order impugned. Accordingly, the revision petition was dismissed. The entire of the order passed by the learned Single Judge of the High Court reads as under: -

> **"**This revision has not been admitted yet.
>
> This criminal revision has been directed against the judgment and order dated 28.10.2017, passed by the learned Sessions Judge in Session Trial No. 8 of 2017 State vs. Narendra Sah, whereby the learned Judge acquitted the accused person under section 376 IPC on the ground of lack of territorial jurisdiction with the liberty to proceed prosecution against the accused in the appropriate Court.
>
> I have perused the impugned judgment and papers on record.
>
> It is settled proposition of law that in a case where the accused has been acquitted by the trial court and even if two views are possible, it is not just and proper on the part of the appellate court to reverse the finding of acquittal recorded by the court below unless the findings of court below are perverse.
>
> I find no perversity, illegality and jurisdictional error in the order impugned.
>
> Accordingly, the revision lacks merit and dismissed."

8. The aforesaid orders as passed by the High Court and the Sessions Judge are in challenge in the present appeal. Before adverting to the stand of the respective parties and the rival contentions, another relevant fact could be taken note of at this juncture, which relates to the trial for the aforesaid offences under Sections 504 and 506 IPC.

9. As noticed, in the impugned order dated 28.10.2017, the learned Sessions Judge, while discharging the accused-respondent No. 2 of the offence under Section 376 IPC on the ground of lack of territorial jurisdiction, had transferred the matter to the Court of Judicial Magistrate

First Class, Gairsain, District Chamoli for trial of the respondent No. 2 in relation to the remaining offences under Sections 504 and 506 IPC. The said matter was taken up for trial by the learned Judicial Magistrate in Criminal Case No. 137 of 2017. In this trial, the appellant and other witnesses were indeed examined by the prosecution and ultimately, the case was decided by the learned Judicial Magistrate by his judgment and order dated 01.05.2019. A perusal of the said judgment and order dated 01.05.2019 makes out that the learned Judicial Magistrate, after appreciation of evidence, found that the prosecution witnesses had failed to establish the fact that the accused-respondent No. 2 hurled abuses or gave death threats to the appellant and her family. The said finding of the learned Judicial Magistrate, leading to acquittal of the accused-respondent No. 2 of the offences under Sections 504 and 506 IPC, reads as under: -

> "None of the prosecution witnesses in their testimonies have stated that the Accused Narender Singh Shah hurled abuses or gave death threats to the Petitioner as well as her family. The testimonies led on record for evidence by the Prosecution against the Accused and the documentary evidence do not prove the charges against the Accused under Section 504 and 506 of the IPC. This is how the Prosecution was unable to prove its case against the Accused. Even though the Prosecution led the testimonies of PW1 to PW6 on record, they were unable to prove the case against the Accused that he hurled abuses and gave death threats to the Complainant. Therefore, the Accused Narender Shah is acquitted of the offences under Section 504, 506 of the IPC."

10. Having taken note of the material facts and relevant orders pertaining to this case, we may now summarise the respective contentions, where the submission made on behalf of the appellant in

challenge to the order dated 25.09.2018, as passed by the High Court as also the order dated 28.10.2017, as passed by the Sessions Judge have been duly supported in the submissions made on behalf of the respondent No. 1-State; and duly countered on behalf of the accused-respondent No. 2.

11. Learned counsel for the appellant has strenuously argued that in this case, the accused-respondent No. 2 has wrongly been discharged of the offence under Section 376 IPC without the learned Sessions Judge appreciating that the offences forming the part of the same transaction could not have been segregated on the ground of want of territorial jurisdiction. The learned counsel has particularly referred to Sections 178 and 179 with Section 220 CrPC and has emphasized that in this case, the offences pertaining to Sections 376, 504 and 506 IPC formed the part of same transaction and their segregation, as ordered by the learned Sessions Judge in the order dated 28.10.2017, has resulted in miscarriage of justice. In support of these contentions, the learned counsel has relied upon the decision in the case of ***Satvinder Kaur v. State (Govt. of NCT of Delhi) and Anr.*****: (1999) 8 SCC 728.**

11.1. Learned counsel for the appellant has submitted, with elaborate reference to contents of the complaint as stated in Judicial Magistrate's order dated 21.01.2017 and to the statements made by the appellant, including that in the trial of the respondent No. 2 for the offences under Sections 504 and 506 IPC, that the appellant has consistently maintained

her stand that she was subjected to forcible sexual intercourse by the respondent No. 2 on the threat of ending the matrimonial alliance. Learned counsel would argue that in view of this consistent stand of the appellant, the respondent No. 2 ought to have been put to trial for the offence under Section 376 IPC, which could not have been segregated from other offences. The learned counsel has also referred to Section 90 IPC to submit that the consent given by the appellant for having physical relationship under fear or misconception could not have been treated as a valid consent; and even as per the presumption provided by Section 114-A of the Evidence Act, 1872, the respondent No. 2 ought to face trial for the offence under Section 376 IPC. A decision of this Court in the case of ***State of Punjab v. Gurmit Singh and Ors.*****: (1996) 2 SCC 384** has also been referred as regards the value and worth attached by the Courts to the assertions of a victim of sexual offence.

11.2. Learned counsel for the appellant has further argued that the trial in Case No. 137 of 2017 for offences under Sections 504 and 506 IPC, where the accused-respondent No. 2 was acquitted by the order dated 01.05.2019, deserves to be quashed because this trial has taken place before the Judicial Magistrate only because of segregation of the said offences with the offence under Section 376 IPC, which is triable only by the Court of Sessions. The submission has been that, by setting aside the order of segregation, the entire matter deserves to be put to trial for the

offence under Section 376 IPC along with the offences under Sections 504 and 506 IPC.

11.3. It has also been argued on behalf of the appellant that while the learned Sessions Judge had erroneously discharged the accused-respondent No. 2 of the offence under Section 376 IPC on the ground of lack of territorial jurisdiction, the High Court summarily dismissed the petition without giving any reason as to its conclusion. It has further been pointed out that the High Court has wrongly recorded as if the accused-respondent No. 2 was acquitted of the offence under Section 376 IPC without appreciating that it had not been a case of acquittal in terms of Section 232 CrPC but had been of discharge in terms of Section 227 CrPC.

12. While supporting the submissions made on behalf of the appellant, learned counsel for the respondent No. 1-State has submitted that the Sessions Judge, Chamoli was indeed competent to try the accused-respondent No.2 for the offence under Section 376 IPC along with the offences under Sections 504 and 506 IPC, for the said offences formed the series of same transaction. Learned counsel for the State has particularly referred to Sections 178(d), 179, 180, 184 read with Sections 220(1) and 220(3) CrPC.

12.1. Learned counsel for the State has further contended that the trial conducted by the Judicial Magistrate First Class, Gairsain, District Chamoli in relation to the charges under Sections 504 and 506 IPC after

segregation of the charge under Section 376 IPC stands vitiated in terms of Clause (l) of Section 461 CrPC. Hence, according to the learned counsel, *de novo* trial of the accused under Sections 376, 504 and 506 IPC is required to be conducted by the Court of Sessions Judge, Chamoli.

12.2. Learned counsel for the State has also referred to a couple of decisions of this Court to submit that in the offence of rape, the solitary evidence of prosecutrix, if it inspires confidence, is sufficient to hold the accused guilty without any need of corroboration. The learned counsel would submit that in the present case, where the prosecutrix has consistently maintained in the FIR as also in the statements under Sections 161 and 164 CrPC, that she was forced by the respondent No. 2 to establish physical relations under the threat of cancelling the marriage, the offence under Section 376 IPC is clearly made out.

13. *Per contra*, learned counsel for the accused-respondent No. 2 has argued that in terms of Section 218 CrPC, the learned Sessions Judge, Chamoli has rightly ordered for separation of charge in relation to Section 376 CrPC and has rightly not proceeded with the same for the alleged occurrence having taken place at Delhi.

13.1. Learned counsel for the accused-respondent No. 2 would submit that in terms of Section 218 CrPC, separate charges are required to the framed for separate offences and they are to be tried separately. It has been contended that in the present case, the learned Sessions Judge rightly took into account the fact that though the appellant and the

respondent No. 2 got engaged at their native place in District Chamoli, Uttarakhand but, the alleged incident of physical relationship or sexual intercourse occurred only at Delhi in the tenanted premises of the respondent No. 2. Thus, according to the learned counsel, the offence under Section 376 IPC had rightly been segregated and the respondent No. 2 had rightly been discharged on account of lack of territorial jurisdiction of the Courts at Chamoli in relation to the said offence. It has also been argued that even in relation to Sections 178 and 179 CrPC, the evidence collected during investigation made it clear that the alleged offence under Section 376 IPC had taken place only at Delhi; that the offence of rape is not a continuing offence; and that the alleged threat given by the respondent No. 2 to the appellant on phone had not been a kind of offence which could be said to be of a series of acts forming the same transaction. The learned counsel has referred to the case of ***Sunita Kumari Kashyap v. State of Bihar and Anr.*****: (2011) 11 SCC 301** and has submitted that looking to the nature of accusations, the matter relating to the offence under Section 376 IPC had rightly been segregated in the present case.

13.2. Learned counsel has further submitted that the accused-respondent No. 2 has been duly acquitted of the charges pertaining to Sections 504 and 506 IPC by the learned Judicial Magistrate with a clear finding that the appellant had failed to furnish any material evidence in relation to those allegations. It is submitted that the judgment of acquittal

dated 01.05.2019 as passed by the learned Judicial Magistrate has attained finality and in that view of the matter too, the alleged offence under Section 376 IPC cannot hold ground any further.

13.3. A long length of arguments on behalf of the respondent No. 2 has also been to the effect that the FIR by the appellant is based on vague and concocted story and has been put forward by the appellant only to harass and arm-twist the respondent No. 2 because of non-solemnization of the proposed marriage. Learned counsel would submit that the respondent No. 2 is being harassed by the appellant for last more than 5 years; that there had been an inordinate delay of 1 year in registration of FIR from the alleged date of incident at Delhi on 21.02.2016; that criminal machinery cannot be used to further the object of harassment and vengeance; and that the life and liberty of the respondent No. 2 are under severe risk at the hand of the appellant because of baseless allegations.

13.4. As regards the contents of the impugned order of High Court, it has been argued on behalf of the respondent No. 2 that the use of expression ‘acquittal’ in place of the expression ‘discharge’ had only been a matter of human error, though the order under challenge was duly examined by the High Court. It has also been submitted that, in fact, such an error occurred for there being no assistance from the side of the appellant, who was the revisionist before the High Court. It is submitted that, in any case, such an error does not take away the substance of the matter that the High Court found no reason to interfere with the just and

proper order passed by the learned Sessions Judge in discharging the appellant of the offence under Section 376 IPC for want of territorial jurisdiction.

14. We have given anxious consideration to the rival submissions and have examined the record with reference to the law applicable.

15. As noticed, the principal question calling for determination in the present case is as to whether the allegations against the accused-respondent No. 2, of committing rape, hurling abuses and extending threats, respectively pertaining to offences under Sections 376, 504 and 506 IPC, could be said to be '*one series of acts so connected together as to form the same transaction*' for the purpose of trial together in terms of Section 220 CrPC?

16. Before dealing with the principal and material question involved in this case, it appears just and appropriate to comment on two peripheral aspects, which need not detain us much longer.

16.1. The first of these marginal aspects is about the nature of order passed by the High Court in this case. Though we have taken note of the rival contentions in that regard but, it is rather unnecessary to deal with them elaborately. It is not a matter of much debate that the High Court has dealt with the revision petition before it in a wholly cursory manner and with erroneous assumption as if it were a case of challenge to the order of acquittal. However, as observed at the outset, rather than adopting the course of remanding the matter for reconsideration by the

High Court, we have considered it just and proper to deal with the relevant question, relating to the validity of the order dated 28.10.2017 as passed by the learned Sessions Judge, on its merits in this appeal itself. Therefore, without any further comments on this part of rival contentions, we would leave the order passed by the High Court at that only.

16.2. Another aspect, which too is peripheral to the material question involved in this matter, is that of rival stands on the correctness or otherwise of the allegations of rape, as levelled against the respondent No. 2. As noticed, a long deal of arguments on behalf of the appellant pertains to the merits of such accusations and as to how the matter relating to consent ought to be dealt with and as to the value and worth attached by the Courts to the statements of a victim of sexual offence. Learned counsel for the State has also joined this line of arguments and has submitted that the solitary evidence of prosecutrix could be sufficient to hold the accused guilty in the offence of rape. In these contentions, the alleged consistent stand of the appellant has also been referred. *Per contra*, it has been urged on behalf of the respondent No. 2 that the allegations of rape are of a concocted story, which has been put forward only for the purpose of continuing with his harassment. It has also been contended that the FIR was lodged after an inordinate delay. In our view, these and correlated contentions concerning the merits of the accusations of rape need neither any adjudication nor even any comment in this appeal. The limited question to be considered in this appeal is concerning

validity of the order passed by the learned Sessions Judge, segregating the offences and discharging the accused-respondent No. 2 of the offence under Section 376 IPC for want of territorial jurisdiction. At the present stage, it is too premature to address the questions pertaining to the merits of these accusations. The relevant aspect at the present stage is that after investigation, charge-sheet was indeed filed for prosecution of the respondent No. 2 for the offences under Sections 376, 504 and 506 IPC but, the prosecution in relation to the offence under Section 376 IPC did not proceed at Chamoli for the view taken by the learned Sessions Judge on territorial jurisdiction. Therefore, this part of the contentions, relating to the merits of accusations of rape, is also left at that only and without any further comment.

17. Reverting now to the principal question involved in the matter, we need to take into comprehension the relevant and referred statutory provisions, as contained in Sections 177, 178, 179, 180, 184, 218 and 220 of the Code of Criminal Procedure, 1973, which read as under: -

> **"177. Ordinary place of inquiry and trial.** - Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.
>
> **178. Place of inquiry or trial. -** (a) When it is uncertain in which of several local areas an offence was committed, or
> (b) where an offence is committed partly in one local area and partly in another, or
> (c) where an offence is a continuing one, and continues to be committed in more local areas than one, or
> (d) where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.
>
> **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.

180. Place of trial where act is an offence by reason of relation to other offence. - When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, the first-mentioned offence may be inquired into or tried by a Court within whose local jurisdiction either act was done.

184. Place of trial for offences triable together. - Where-
(a) the offences committed by any person are such that he may be charged with, and tried at one trial for, each such offence by virtue of the provisions of section 219, section 220 or section 221, or
(b) the offence or offences committed by several persons are such that they may be charged with and tried together by virtue of the provisions of section 223,
the offences may be inquired into or tried by any Court competent to inquire into or try any of the offences.

218. Separate charges for distinct offences. -(1) For every distinct offence of which any person is accused there shall be a separate charge and every such charge shall be tried separately:

Provided that where the accused person, by an application in writing, so desires and the Magistrate is of opinion that such person is not likely to be prejudiced thereby the Magistrate may try together all or any number of the charges framed against such person.

(2) Nothing in sub-section (1) shall affect the operation of the provisions of sections 219, 220, 221 and 223.

220. Trial for more than one offence. - (1) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.
(2) When a person charged with one or more offences of criminal breach of trust or dishonest misappropriation of property as provided in sub-section (2) of section 212 or in sub-section (1) of section 219, is accused of committing, for the purpose of facilitating or concealing the commission of that offence or those offences, one or more offences of falsification of accounts, he may be charged with, and tried at one trial for, every such offence.
(3) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.
(4) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a

> different offence, the person accused of them may be charged with, and tried at one trial for the offence constituted by such acts when combined, and for any offence constituted by any one, or more, or such acts.
> (5) Nothing contained in this section shall affect section 71 of the Indian Penal Code (45 of 1860)."

18. At this juncture, we may also take note of the decisions cited by the learned counsel for the contesting parties in support of their respective contentions pertaining to the principal question involved in the matter.

18.1. In the case of ***Satvinder Kaur*** (supra), the facts in brief were that the appellant was thrown out of her matrimonial home in Patiala, Punjab. She lodged a complaint at Police Station Kotwali, Patiala on the allegations of torture and dowry demand against the husband and in-laws. Thereafter, she came to Delhi to live with her parents. Within that time also, threats by her husband continued. The appellant filed a complaint with the Women's Cell, Delhi and subsequently lodged an FIR relating to the offences under Sections 406 and 498-A IPC at Police Station Paschim Vihar, New Delhi. A question was raised by the accused as regards territorial jurisdiction of the Station House Officer, Police Station Paschim Vihar, New Delhi to investigate the FIR as the dowry items were entrusted at Patiala and the alleged cause of action arose at Patiala. To this, the High Court took the view that the said Investigating Officer at New Delhi had no territorial jurisdiction. This view of the High Court was, however, not approved by this Court while observing, *inter alia*, as under: -

> "**15**. Hence, in the present case, the High Court committed a grave error in accepting the contention of the respondent that the investigating officer had no jurisdiction to investigate the matters on the alleged ground that no part of the offence was committed within the territorial jurisdiction of the police station at Delhi. The appreciation of the evidence is the function of the courts when seized of the matter. At the stage of investigation, the material collected by an investigating officer cannot be judicially scrutinized for arriving at a conclusion that the police station officer of a particular police station would not have territorial jurisdiction. In any case, it has to be stated that in view of Section 178(*c*) of the Criminal Procedure Code, when it is uncertain in which of the several local areas an offence was committed, or where it consists of several acts done in different local areas, the said offence can be enquired into or tried by a court having jurisdiction over any of such local areas. Therefore, to say at the stage of investigation that the SHO, Police Station Paschim Vihar, New Delhi was not having territorial jurisdiction, is on the face of it, illegal and erroneous. That apart, Section 156(2) contains an embargo that no proceeding of a police officer shall be challenged on the ground that he has no territorial power to investigate. The High Court has completely overlooked the said embargo when it entertained the petition of Respondent 2 on the ground of want of territorial jurisdiction."

18.2. In the case of ***Sunita Kumari Kashyap*** (supra), the appellant-wife lodged an FIR for offences under Sections 498-A, 406 read with Section 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961 at Gaya while alleging that she suffered ill-treatment and cruelty at the hands of her husband and in-laws at Ranchi; that she was forcibly brought to her parental home at Gaya; that after she gave birth to a girl child, she was blamed for having brought an additional burden; and that after some time, her husband came out with a new demand that unless her father gave him the house at Gaya, she would not be taken back to her matrimonial home at Ranchi. On the similar question of jurisdiction, the High Court held that the proceedings at Gaya were not maintainable. However, this Court did not approve of the order so passed by the High Court and in

that context, after referring to Sections 177, 178 and 179 CrPC, this Court observed and explained as under: -

> "**8**…. From the above provisions, it is clear that the normal rule is that the offence shall ordinarily be inquired into and tried by a court within whose local jurisdiction it was committed. However, when it is uncertain in which of several local areas an offence was committed or where an offence is committed partly in one local area and partly in another or where an offence is a continuing one, and continues to be committed in more than one local area and takes place in different local areas as per Section 178, the court having jurisdiction over any of such local areas is competent to inquire into and try the offence. Section 179 makes it clear that if anything happened as a consequence of the offence, the same may be inquired into or tried by a court within whose local jurisdiction such thing has been done or such consequence has ensued."

18.2.1. While applying the principles to the facts of the case, this Court held that the offence of ill-treatment and humiliation meted out to the appellant was a continuing one; the same was committed in more than one local areas; and one of the local areas being Gaya, the learned Magistrate at Gaya was having jurisdiction to proceed with the criminal case instituted therein. This Court observed and held as under: -

> "**18.** …In view of the 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, we hold 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. In other words, as the offence was a continuing one and the episode at Gaya was only a consequence of continuing offence of harassment and ill-treatment meted out to the complainant, clause (*c*) of Section 178 is attracted..."

19. A few salient features of both the decisions aforesaid in ***Satvinder Kaur*** and ***Sunita Kumari Kashyap*** could be usefully recounted.

19.1. As noticed, in the case of ***Satvinder Kaur*** (supra), the question of jurisdiction was raised at the investigation stage. In that context, this Court pointed out that at the stage of investigation, the material collected by the investigating officer cannot be judicially scrutinized for arriving at a conclusion that the particular officer or a particular police station would not have territorial jurisdiction. This Court also referred to clause (c) of Section 178 CrPC, as regards jurisdiction in case of uncertainty of the area/areas of commission of offence. In continuity, this Court pointed out, with reference to Section 156(2) CrPC, that no proceeding of a police officer is to be challenged on the ground of power to investigate. Noticeable it is that in the said case, the appellant had made allegations of torture and dowry demand at Patiala and it was also alleged that after her coming to Delhi to live with her parents, the threats by her husband continued. The complaint had essentially been of the offences under Sections 406 and 498-A IPC, whether at Patiala or at Delhi. In the case of ***Sunita Kumari Kashyap*** (supra), this Court has summarised the rules discernible from a combined reading of Sections 177, 178 and 179 CrPC but, in the said case, again, the complaint was of the offences pertaining to Sections 406 and 498-A IPC as also Sections 3 and 4 of the Dowry Prohibition Act, 1961, essentially relating to ill-treatment, cruelty and demands by the husband and his relatives; and as per the factual matrix,

such acts took place at Ranchi and continued at Gaya. Hence, this Court found the said case to be that of continuing offence.

19.2. Apart from the fact that the case of ***Satvinder Kaur*** (supra) was that of raising the question of jurisdiction at the threshold stage of investigation (which was not approved by this Court), the fundamental fact remains that in each of these cases, the principal offences, of Sections 406 and 498-A IPC, were said to have been committed at the matrimonial home of the lady and were allegedly continued even when the lady had shifted to her parental home at a different station. In such a situation, clause (c) of Section 178 CrPC came in operation, dealing with the eventuality when '*an offence is a continuing one and continues to be committed in more local areas than one*'.

19.2. The provisions of Section 178 CrPC essentially deal with a singular offence which is either partly committed in one area and partly in another; or continues to be committed in more local areas than one; or it consists of several acts done in different local areas; or when it is uncertain of which of the several areas it has been committed. This provision primarily operates in relation to one and the same offence, which gets bifurcated into, or is spread over, different local areas because of continuing acts or different acts, one after another, like the offences of Section 498-A or Section 406 IPC in the referred cases. Then, in the eventuality of an act being an offence for anything which has been done and consequence that has ensued, as per Section 179 CrPC, the offence

could be tried by a Court within whose jurisdiction the act has been done or where the consequence of such an act has ensued. Further, as per Section 180 CrPC, when an act is an offence because of its relation to any other act which is also an offence, the former could be tried by a Court within whose local jurisdiction either of the act is done. These provisions provide exception to the normal rule envisaged by Section 177 CrPC that every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

19.3. Both the decisions aforesaid, though dealing with the operation of Section 178 CrPC, do not directly render assistance in the present case. The fact situation of the present case is different. It is not the case of an offence comprising of bifurcated or segmented or continuing acts.

20. The fact situation of the present case and the complaint as made by the appellant is of the allegations of different offences, of different nature and at different places of occurrence, though said to have been committed by the same person, i.e., respondent No. 2 and against the same person, i.e., the appellant and having their genesis in the proposed matrimonial alliance, which did not materialise. The allegations, obviously, consist of offences of distinct nature inasmuch as one set of allegations is of the offence of rape at Delhi (Section 376 IPC) and the other set of allegations is of hurling abuses and extending threat on phone calls received by the appellant at her village in District Chamoli (Sections 504 and 506 IPC). These being different offences, the question to be

examined with reference to Section 220 CrPC read with Section 184 CrPC is as to whether the alleged offences are such that the respondent No. 2 could be charged with and tried at one trial for each of them. In other words, as noticed, the question in this case is as to whether the acts complained of could be said to be '*one series of acts so connected together as to form the same transaction*' for the purpose of trial together. For dealing with the question in reference to the peculiar facts of the present case, the principles stated in a few other decisions may be usefully noticed.

20.1. In the case of ***Mohan Baitha and Ors. v. State of Bihar and Anr.*****: (2001) 4 SCC 350,** this Court observed that the expression '*same transaction*', from its very nature, was incapable of an exact definition and it was not possible to enunciate any comprehensive formula of universal application for the purpose of determining whether two or more acts constitute the same transaction. However, this Court indicated a few factors, which would be relevant to decide this question in a given set of facts. In that case, on the complaint of the father of deceased, FIR was lodged for offences under Sections 304-B/34/406 IPC at Police Station Nath Nagar in the District of Bhagalpur, Bihar. Police report was filed on 03.04.1999 after completion of investigation. However, the accused approached the High Court, seeking direction to the Magistrate not to proceed with the matter on the grounds of lack of territorial jurisdiction, as the offence under Section 304-B IPC had taken place at Jahanaganj in

the State of Uttar Pradesh and the Court at Bhagalpur was lacking in territorial jurisdiction to try the same. The High Court dismissed the petition of the accused. In further appeal, this Court also observed that the acts formed parts of the same transaction, which came under the ambit of Section 220 CrPC; and directed the Magistrate at Bhagalpur to proceed with the matter expeditiously. This Court, while expounding on Sections 177 and 220 CrPC, observed and laid down as under: -

> "4.....Section 177 of the Code of Criminal Procedure on which Mr Mishra relies, uses the expression "ordinarily". The use of the word "ordinarily" indicates that the provision is a general one and must be read subject to the special provisions contained in the Criminal Procedure Code. That apart, this Court has taken the view that the exceptions 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 considerations of convenience or may be implied from other provisions of law permitting joint trial of offences by the same court..... It may be noticed that under Section 220 of the Code of Criminal Procedure, offences more than one committed by the same persons could be tried at one trial, if they can be held to be in one series of acts, so as to form the same transaction. The expression "same transaction" from its very nature is incapable of an exact definition. It is not intended to be interpreted in any artificial or technical sense. Common sense and the ordinary use of language must decide whether on the facts of a particular case, it can be held to be in one transaction. It is not possible to enunciate any comprehensive formula of universal application for the purpose of determining whether two or more acts constitute the same transaction. <u>But the circumstances of a given case indicating proximity of time, unity or proximity of place, continuity of action and community of purpose or design are the factors for deciding whether certain acts form parts of the same transaction or not. Therefore a series of acts whether are so connected together as to form the same transaction is purely a question of fact to be decided on the aforesaid criteria."</u>
>
> (emphasis supplied)

20.2. The said decision in ***Mohan Baitha*** (supra) has further been referred to and relied upon by this Court in the case of ***Anju Chaudhary v. State of Uttar Pradesh and Anr.*****: (2013) 6 SCC 384** while indicating

the tests to be applied for determining the question as to whether two or more acts constitute the same transaction. This Court observed and explained as under: -

> "**43.** It is true that law recognises common trial or a common FIR being registered for one series of acts so connected together as to form the same transaction as contemplated under Section 220 of the Code. There cannot be any straitjacket formula, but this question has to be answered on the facts of each case. This Court in *Mohan Baitha* v. *State of Bihar* (SCC pp. 354-55, para 4) held that the expression "same transaction" from its very nature is incapable of exact definition. It is not intended to be interpreted in any artificial or technical sense. Common sense in the ordinary use of language must decide whether or not in the very facts of a case, it can be held to be one transaction.
>
> **44.** It is not possible to enunciate any formula of universal application for the purpose of determining whether two or more acts constitute the same transaction. Such things are to be gathered from the circumstances of a given case indicating proximity of time, unity or proximity of place, continuity of action, commonality of purpose or design. Where two incidents are of different times with involvement of different persons, there is no commonality and the purpose thereof different and they emerge from different circumstances, it will not be possible for the court to take a view that they form part of the same transaction and therefore, there could be a common FIR or subsequent FIR could not be permitted to be registered or there could be common trial.
>
> **45.** Similarly, for several offences to be part of the same transaction, the test which has to be applied is whether they are so related to one another in point of purpose or of cause and effect, or as principal and subsidiary, so as to result in one continuous action. Thus, where there is a commonality of purpose or design, where there is a continuity of action, then all those persons involved can be accused of the same or different offences "committed in the course of the same transaction"."
>
> (emphasis supplied)

20.3. Thus, in the aforesaid decisions in ***Mohan Baitha*** and ***Anju Chaudhary***, this Court has underscored that the expression '*same transaction*' seems to be having vague underpinnings; and this Court has also pointed out that no formula of universal application could be enunciated for determining as to whether two or more acts constitute the

same transaction. However, even while pointing out that the question as to whether a series of acts are so connected together as to form the same transaction is purely a question of fact, this Court has indicated the core elements like proximity of time, unity or proximity of place, continuity of action and community of purpose or design, which are of relevant considerations and when these factors are applied to common sense and ordinary use of language, the vexed question of '*same transaction*' could be reasonably determined.

21. Keeping the aforesaid principles in view, we may examine as to whether the series of acts as alleged in the present case could be said to be so connected together as to form the same transaction. This is a pure question of fact and has been decided by the learned Sessions Judge against the appellant essentially on the considerations that the place of occurrence of alleged offence of rape was at Delhi; the offence of rape was not a continuing offence; and alleged threats given by the respondent No. 2 to the appellant on phone were not constituting such offences as to form a series of acts with the first-mentioned offence of rape. We have no hesitation in endorsing the views of the learned Sessions Judge on the facts of the present case.

22. In the present case, according to the appellant, her engagement with the respondent No. 2 took place on 13.11.2015 at village Dangidhar, Tehsil Gairsain, District Chamoli; later on, the accused-respondent No. 2 asked her to come to Delhi for purchasing and she did so, albeit

reluctantly and on the alleged threat of the accused-respondent No. 2 to break the engagement; from 21.02.2016 to 24.02.2016, the accused-respondent No. 2 allegedly had had sexual intercourse with the appellant against her wishes and on the threat of dropping the matrimonial alliance; the accused later on allegedly asked her to bring Rs. 25 lakhs for construction of house and he would marry only upon receiving the money; the appellant's mother filed a complaint at Police Station Gairsain where the accused-respondent No. 2 allegedly filed an affidavit on 01.11.2016 assuring to marry the appellant in the month of December, 2016; however, he did not marry the appellant and instead, hurled abuses and threatened to kill her. As per the statement recorded by the appellant under Section 164 CrPC, she had also visited Delhi on 23.03.2016 on the asking of the accused-respondent No.2 and at that time, the accused made physical relationship twice with her consent, which was given on the pretext of marriage.

22.1. A close look at the alleged events/acts bring to fore the basic feature that on 13.11.2015, the appellant and the respondent No. 2 were engaged for matrimonial alliance at their village Dangidhar, Tehsil Gairsain, District Chamoli but, the proposal of marriage did not materialise. However, the alleged acts of sexual relationship took place at Delhi in the months of February and March, 2016. The other alleged acts had been of the respondent No. 2 hurling abuses and extending threats in or around the month of November, 2016, which the appellant received

over telephone at her village. The acts in question were neither proximate in time nor proximate in place; they were not of continuity either. Significantly, while the appellant had alleged that she submitted to the sexual acts because of the threat by the respondent No.2 to snap the proposed alliance but it had not been her case that the respondent No. 2 attempted to coerce her into the same physical relationship while hurling abuses or threatening to kill at the later part of time. Thus, it is difficult to find continuity of actions and community of purpose or design in two different acts leading to two different set of offences, i.e., one under Section 376 IPC and the other under Sections 504/506 IPC. Putting it differently, so far as the act leading to the offence of rape under Section 376 IPC is concerned, even as per the allegations of the appellant, that particular act was a completed one and the original design of subjecting the appellant to physical relations was accomplished at Delhi in the months of February and March, 2016. As noticed, there is no allegation of such an activity having continued later or having taken place at Chamoli or even any threat having been extended to the appellant to again submit to such an activity. Viewed from this angle too, the completed act concerning one offence (Section 376 IPC) could not have been connected with the other acts leading to other offences.

22.2. From whatever angle we examine the matter, in the given set of facts, it is difficult to sew the alleged acts together so as to form the same transaction. To put it in a simple idiom, the two alleged set of acts, one of

sexual exploitation, leading to the offence of rape (Section 376 IPC) and another of hurling abuses and threats, leading to the offences of insult and intimidation (Sections 504/506 IPC), are just like chalk and cheese; they cannot be connected together so as to form the same transaction on the facts of this case.

23. For what has been discussed hereinabove, the view as taken by the learned Sessions Judge commends to us that on the facts of this case, the offence under Section 376 IPC as allegedly committed at Delhi, being different and distinct than the other offences and being not of same transaction, could not have been tried by the Courts at Chamoli. Therefore, the order passed by the learned Sessions Judge calls for no interference.

24. Another aspect of the matter pertains to the impact, implication and consequences of the judgment and order dated 01.05.2019 as passed by the Judicial Magistrate First Class, Gairsain, District Chamoli in Criminal Case No. 137 of 2017, whereby the accused-respondent No. 2 has been acquitted of the offences under Sections 504 and 506 IPC, as also the validity of such proceedings before the learned Judicial Magistrate.

24.1. It has been suggested on behalf of the respondent No. 1-State that the segregation of charge of the offence under Section 376 IPC had been erroneous and because of this error, the matter went to trial before the learned Judicial Magistrate for the offences under Sections 504 and

506 IPC though the entire matter ought to be tried in the Court of Sessions. Section 461 CrPC has been referred to in that regard. Although, for what has been discussed and held hereinbefore, there had been no error in segregation of the charge of the offence under Section 376 IPC, yet it need be stated that this line of submissions, questioning the validity of the proceedings before the learned Judicial Magistrate, remains baseless and is rather misplaced. Section 461 CrPC with its relied upon clause (l) reads as under: -

> "**461. Irregularities which vitiate proceedings.** - If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely: -
> …. …. ….
> (l) tries an offender;
> …. …. ….
> his proceedings shall be void."

24.1.1. So far as the offences under Sections 504 and 506 IPC are concerned, it cannot be said that the said Judicial Magistrate was not empowered by law to try these offences. Rather, the offence under Section 504 IPC is triable by any Magistrate. In the present case, the alleged threat was to cause death which relates to Part II of Section 506 IPC and is triable by a Judicial Magistrate of First Class. It is not the case that the Magistrate concerned who had tried the matter was in any way lacking in power and authority to try the offences under Sections 504 and 506 IPC. The validity and correctness of the order of segregation of the charge under Section 376 IPC is a matter entirely different but until the said order was in operation, the matter had to go to the trial before the

said Magistrate and he was bound to proceed with the same. Hence, this contention on behalf of the respondent No. 1-State stands rejected.

24.2. We may also observe that the accused-respondent No. 2 having gone through the trial in relation to offences under Sections 504 and 506 IPC and having been acquitted, cannot be subjected to another trial for the same charges on the same facts. Any such process would be in blatant disregard of the settled principles which disapprove double jeopardy and are precisely contained in Article 20(2) of the Constitution of India as also Section 300 of the Code of Criminal Procedure, 1973. The protection under clause (2) of Article 20 of the Constitution of India is clear and unambiguous in the following terms: -

> **"20. Protection in respect of conviction for offences. -**
> …. …. ….
> (2) No person shall be prosecuted and punished for the same offence more than once.
> …. …. …."

24.2.1. Section 300 of the Code of Criminal Procedure, 1973 reads as under: -

> "**300. Person once convicted or acquitted not to be tried for same offence. -**
> (1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub-section (1) of section 221, or for which he might have been convicted under sub-section (2) thereof.
> (2) A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government, for any distinct offence for which a separate charge might have been

made against him at the former trial under sub-section (1) of section 220.

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) A person discharged under section 258 shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other Court to which the first-mentioned Court is subordinate.

(6) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897 (10 of 1897) or of section 188 of this Code.

Explanation. - The dismissal of a complaint, or the discharge of the accused, is not an acquittal for the purposes of this section."

24.3. In view of the provisions aforesaid, without further elaboration, suffice it would be to observe that on the facts and in the circumstances of present case, even if respondent No. 2 is acquitted of charges under Sections 504 and 506, he could be tried by the jurisdictional Sessions Court in respect of alleged offence of rape under Section 376 IPC, because this offence could not have been tried by the Judicial Magistrate First Class. However, he cannot be sent to trial again for offences under Sections 504 and 506 IPC in any event. We need not say any more in this regard.

25. Upshot of the foregoing discussion is that on the facts and in the circumstances of this case, the alleged offence under Section 376 IPC and the other offences under Sections 504 and 506 IPC do not fall within

the ambit of '*one series of acts so connected together as to form the same transaction*' for the purpose of trial together in terms of Section 220 CrPC. Thus, the learned Sessions Judge, Chamoli had rightly discharged the accused-respondent No. 2 of the offence under Section 376 IPC for want of territorial jurisdiction.

26. Accordingly, and in view of the above, this appeal fails and is, therefore, dismissed.

……..……J.
(DINESH MAHESHWARI)

……..……J.
(VIKRAM NATH)

NEW DELHI;
JUNE 16, 2022.