

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

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 14th OF MARCH, 2024

MISC. CRIMINAL CASE No. 30092 of 2022

BETWEEN:-

**ALKA SHARMA W/O LATE
SHRI VIRENDRA SHARMA
OCCUPATION: RETIRED C-
804, APARNA SAGAR,
NALLAGANDLA HYDERABAD
(TS) (TELANGANA)**

.....PETITIONER

(BY SHRI AVIRAL VIKAS KHARE – ADVOCATE)

AND

**1. THE STATE OF MADHYA
PRADESH THROUGH
MAHILA THANA MADAN
MAHAL JABALPUR
(MADHYA PRADESH)**

**2. RASHI SHARMA
(CHOUDHARY) W/O
AVIJIT SHARMA, AGED
ABOUT 34 YEARS,
OCCUPATION: SERVICE
R/O 101, SUKH SAGAR
APARTMENT, NAPIER
TOWN, JABALPUR
(MADHYA PRADESH)**

.....RESPONDENTS

***(SMT. SWATI ASEEM GEORGE – DY. GOVERNMENT ADVOCATE FOR
RESPONDENT NO.1 / STATE AND SHRI AKASH AGARWAL –
ADVOCATE FOR RESPONDENT NO. 2)***

*This application coming on for admission this day, the court passed
the following:*

ORDER

1. This application under Section 482 of Cr.P.C. has been filed seeking quashment of FIR and subsequent proceedings in Crime No.108/2021 registered at Police Station Mahila Thana, Madan Mahal, Jabalpur, for offence under Sections 498-A, 506 r/w Section 34 of IPC and Section 3, 4 of Dowry Prohibition Act.
2. Facts necessary for disposal of the present application in short are that respondent no. 2 lodged an FIR to the effect that she got married to the son of the applicant on 23.4.2016 in Hotel Krishna, Napier Town, Jabalpur. It was a love marriage but it was attended by the family members of both the parties. At the time of her marriage, the applicant was in service and was posted in Chakrata (Uttarakhand). After four months of their marriage, applicant took voluntary retirement and shifted to Pune and she started residing with them. She started interfering with day to day working of respondent no. 2 and also used abusive language in order to harass her mentally. Her husband was also taking side of his mother. The applicant was not happy with the marriage of her son with respondent no.2. She had unnecessarily started claiming that as per astrologers, there are two marriages in the life of respondent no. 2 and accordingly, she was passing taunts. Whenever, they used to go to market, her husband used to quarrel with her and used to leave her in the market. When she narrated the incident to the applicant, then she also did not try to convince her son / husband of respondent no. 2 but she also continued to pass taunts and also used to cause her mental cruelty. Her husband all the time started harassing her for demand of dowry and also started demanding flat and car. Since her father had already retired and had no independent source of

income and whatever bank saving he had, were already spent, therefore, she did not narrate the incident to her father. Thereafter, her mental and physical harassment continued and the demand of costly T. V. costly Camera and its lenses were being made. Respondent no. 2 had also spent money out of her savings. Later on, demand of costly articles continued. She also purchased costly Drone, triple door fridge, Microwave and other household articles. Although, the marriage was not arrange marriage and it was love marriage but immediately after the marriage, her husband had raised demand of dowry. He was in the habit of strangulating her. After the marriage, she came to know that her husband is not physically fit and in spite of various suggestions, he did not go to the doctor and on the contrary, he started assaulting her physically as well as mentally. Seven months have passed but she has not conceived. Every time her husband had given a threat to give divorce and accordingly, he is causing mental harassment to her. Whenever, she tried to convince him, he extended a threat that he would leave the house and change his mobile number. She has an apprehension that since her husband has no property and no permanent address, therefore, her husband may leave the country at any point of time and may spoil her life and therefore, it is prayed that passport of her husband may be forfeited so that her husband may not go to foreign country. In the meanwhile, applicant went to America to reside with her daughter and her son-in-law and now, her husband is also intending to leave the country and accordingly, it was prayed that his passport should be immediately seized. She has also apprehension that his husband may change mobile number and address so that his whereabouts may not be located and he may also leave the country. It was further alleged that she

was not being given the personal information like bank account, social media account and information regarding her private life etc. In the month of January, her husband came to Jabalpur and during that stay also, he assaulted and caused physical injury to her. When her parents came to know about the behavior of her husband, then they also tried to convince him and ultimately he took her to Hyderabad and they were working in two different companies in Hyderabad. Because of mental and physical harassment, she had mentally broken down and therefore, in order to ensure her personal security, she came down to Jabalpur and is residing in her parental home from the month of August and now, her husband and her mother-in-law have stopped talking to her and her mother in-law has also shifted to abroad to live along with her daughter and son-in-law. No attempt was ever made by her mother-in-law to re-conciliate between respondent no. 2 and her husband. On the contrary, she was also harassing her and she also deprived her from love and affection of mother-in-law. Even after, she came back to Jabalpur, her husband is continuously threatening that neither he would come to Jabalpur nor he would take her back and he was always insisting that she should get separated and he is in the contact of other ladies and also in the habit of talking to them on mobile. In spite of her various efforts, her husband has stated that neither he would talk to her parents nor would talk to any of her relatives and in case if respondent no. 2 makes any attempt to contact him, then he would change his address, place, mobile number etc. Since her husband has Visa of America also, therefore, it was prayed that passport of her husband may be seized and an FIR be lodged.

3. Challenging the FIR as well as criminal prosecution of the applicant / mother-in-law, it is submitted by counsel for the applicant that even if the entire allegations are accepted on their face value, then no offence would be made out warranting prosecution of the applicant.
4. Per contra, it is submitted by counsel for the respondent no. 2 that the allegations made in the FIR do make out a prima facie case warranting prosecution of the applicant, therefore, the application should be dismissed.
5. Heard learned counsel for the parties.
6. Before advertng to the facts of the case, this Court would like to consider the scope of interference at the stage of 482 of Cr.P.C.
7. The Supreme Court in the case of **XYZ v. State of Gujarat** reported in **(2019) 10 SCC 337** has held as under :

14. Having heard the learned counsel for the parties and after perusing the impugned order and other material placed on record, we are of the view that the High Court exceeded the scope of its jurisdiction conferred under Section 482 CrPC, and quashed the proceedings. Even before the investigation is completed by the investigating agency, the High Court entertained the writ petition, and by virtue of interim order granted by the High Court, further investigation was stalled. Having regard to the allegations made by the appellant/informant, whether the 2nd respondent by clicking inappropriate pictures of the appellant has blackmailed her or not, and further the 2nd respondent has continued to interfere by calling Shoukin Malik or not are the matters for investigation. In view of the serious allegations made in the complaint, we are of the view that the High Court should not have made a roving inquiry while considering the application filed under Section 482 CrPC. Though the learned counsel have made elaborate submissions on various contentious issues, as we

are of the view that any observation or findings by this Court, will affect the investigation and trial, we refrain from recording any findings on such issues. From a perusal of the order of the High Court, it is evident that the High Court has got carried away by the agreement/settlement arrived at, between the parties, and recorded a finding that the physical relationship of the appellant with the 2nd respondent was consensual. When it is the allegation of the appellant, that such document itself is obtained under threat and coercion, it is a matter to be investigated. Further, the complaint of the appellant about interference by the 2nd respondent by calling Shoukin Malik and further interference is also a matter for investigation. By looking at the contents of the complaint and the serious allegations made against 2nd respondent, we are of the view that the High Court has committed error in quashing the proceedings.

(Underline supplied)

8. The Supreme Court in the case of **State of Tamil Nadu Vs. S. Martin & Ors.** reported in **(2018) 5 SCC 718** has held as under:-

"7. In our view the assessment made by the High Court at a stage when the investigation was yet to be completed, is completely incorrect and uncalled for"

9. The Supreme Court in the case of **Ajay Kumar Das v. State of Jharkhand**, reported in **(2011) 12 SCC 319** has held as under :

12. The counsel appearing for the appellant also drew our attention to the same decision which is relied upon in the impugned judgment by the High Court i.e. *State of Haryana v. Bhajan Lal*. In the said decision, this Court held that it may not be possible to lay down any specific guidelines or watertight compartment as to when the power under Section 482 CrPC could be or is to be exercised. This Court, however, gave an exhaustive list of various kinds of cases wherein such power could be

exercised. In para 103 of the said judgment, this Court, however, hastened to add that as a note of caution it must be stated that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases for the Court would not be justified in embarking upon an inquiry as to the reliability or genuineness or otherwise of the allegations made in the first information report or in the complaint and that the extraordinary or the inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice.

10. The Supreme Court in the case of **Mohd. Akram Siddiqui v. State of Bihar** reported in **(2019) 13 SCC 350** has held as under :

5. Ordinarily and in the normal course, the High Court when approached for quashing of a criminal proceeding will not appreciate the defence of the accused; neither would it consider the veracity of the document(s) on which the accused relies. However an exception has been carved out by this Court in *Yin Cheng Hsiung v. Essem Chemical Industries; State of Haryana v. Bhajan Lal* and *Harshendra Kumar D. v. Rebatilata Koley* to the effect that in an appropriate case where the document relied upon is a public document or where veracity thereof is not disputed by the complainant, the same can be considered.

11. The Supreme Court in the case of **State of A.P. v. Gourishetty Mahesh** reported in **(2010) 11 SCC 226** has held as under :

18. While exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge/Court. It is true that the Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before

issuing process, otherwise, it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time, Section 482 is not an instrument handed over to an accused to short-circuit a prosecution and brings about its closure without full-fledged enquiry.

19. Though the High Court may exercise its power relating to cognizable offences to prevent abuse of process of any court or otherwise to secure the ends of justice, the power should be exercised sparingly. For example, where the allegations made in the FIR or complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused or allegations in the FIR do not disclose a cognizable offence or do not disclose commission of any offence and make out a case against the accused or where there is express legal bar provided in any of the provisions of the Code or in any other enactment under which a criminal proceeding is initiated or sufficient material to show that the criminal proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused due to private and personal grudge, the High Court may step in.

20. Though the powers possessed by the High Court under Section 482 are wide, however, such power requires care/caution in its exercise. The interference must be on sound principles and the inherent power should not be exercised to stifle a legitimate prosecution. We make it clear that if the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of inherent powers under Section 482.

12. The Supreme Court in the case of **M. Srikanth v. State of Telangana**, reported in **(2019) 10 SCC 373** has held as under :

17. It could thus be seen, that this Court has held, that where the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute a case against the accused, the High Court would be justified in quashing the proceedings. Further, it has been held that where the uncontroverted allegations in the FIR and the evidence collected in support of the same do not disclose any offence and make out a case against the accused, the Court would be justified in quashing the proceedings.

13. The Supreme Court in the case of **CBI v. Arvind Khanna** reported in **(2019) 10 SCC 686** has held as under :

17. After perusing the impugned order and on hearing the submissions made by the learned Senior Counsel on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 CrPC, the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant CBI, and the defence put forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 CrPC.

18. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance of by the competent court, is completely incorrect and uncalled for.”

14. Further, the Supreme Court in the case of **State of MP Vs. Kunwar Singh** by order dated **30.06.2021** passed in **Cr.A. No.709/2021** has held that a detailed and meticulous appreciation of evidence at the stage of 482

of CrPC is not permissible and should not be done. In the case of **Kunwar Singh (supra)**, the Supreme Court held as under:-

"8.....At this stage, the High Court ought not to be scrutinizing the material in the manner in which the trial court would do in the course of the criminal trial after evidence is adduced. In doing so, the High Court has exceeded the well-settled limits on the exercise of the jurisdiction under Section 482 of CrPC. A detailed enquiry into the merits of the allegations was not warranted. The FIR is not expected to be an encyclopedia....."

15. Similar view has been taken by Supreme Court in the cases of **Munshiram Vs. State of Rajasthan** reported in (2018) 5 SCC 678, **Teeja Devi Vs. State of Rajasthan** reported in (2014) 15 SCC 221, **State of Orissa Vs. Ujjal Kumar Burdhan** reported in (2012) 4 SCC 547, **S. Khushboo Vs. Kanniammal** reported in (2010) 5 SCC 600, **Sangeeta Agrawal Vs. State of U.P.** reported in (2019) 2 SCC 336, **Amit Kapoor Vs. Ramesh Chander** reported in (2012) 9 SCC 460, **Padal Venkata Rama Reddy Vs. Kovuri Satyanarayana Reddy** reported in (2012) 12 SCC 437, **M.N. Ojha Vs. Alok Kumar Srivastav** reported in (2009) 9 SCC 682.
16. If the facts of the present case are considered in the light of the scope of interference at the stage of 482 of Cr.P.C., then it is clear that love marriage with the consent of family members of both the parties took place on 23.4.2016. At the time of marriage of respondent no. 2, the applicant was in service and she was posted in Chakhrata (Uttarakhand). According to respondent no. 2, after four months of her marriage, the applicant took voluntary retirement and shifted to Pune and started

residing with respondent no. 2 as well as her son / husband of respondent no. 2.

17. It is the case of respondent no. 2 that the applicant used to interfere in day to day household works and her husband was also taking the side of the applicant. Another allegation against the applicant is that the applicant was continuously saying that as per the astrologers there are two marriage in the life of respondent no. 2 and accordingly, it is alleged that respondent no. 2 was getting mental harassed. It is also alleged that whenever her husband used to shout at her in the mid of the market and whenever she narrated this incident to her mother-in-law / applicant, then she did not try to pursue her husband and was also passing taunts on her. Thereafter, there is no allegation against the applicant with regard to demand of dowry and harassment on account of demand of dowry. It is also mentioned in the FIR that the applicant has already shifted to a foreign country and is residing with her daughter and her son-in-law. Another allegation made by respondent no. 2 is that she has been deprived of love and affection of her mother-in-law.

18. The only question for consideration is whether the aforesaid circumstances are sufficient to prosecute the applicant or not.

19. Section 498-A of IPC reads as under :-

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

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

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

20. It is the case of the applicant that even if the entire allegations are accepted, then it cannot be said that there was any willful act / conduct on the part of the applicant which may drive respondent no. 2 to commit suicide.
21. If the allegations made in the FIR are considered, then this Court is of the considered opinion that they are general allegations. If mother-in-law was objecting to certain household works of her daughter-in-law, then by no stretch of imagination it can be said that such act of the mother-in-law would fall within the category of cruelty as defined under Section 498-A of IPC.
22. If daughter-in-law gets mental harassment on account of certain objections raised by her mother-in-law in the household works, then it can be said that daughter-in-law may be hypersensitive. But, certain disputes with regard to household works would certainly not amount to cruelty as cruelty.
23. Another allegation is that whenever respondent no. 2 informed the aggressive conduct of her husband to the applicant, then she did not try to pursue her son but she all the time was passing taunts. This allegation is also not with regard to any demand of dowry. If mother-in-law tries to stay

away from the personal disputes in the life of the husband and wife, then it cannot be said that such act of mother-in-law would amount to cruelty. Even otherwise, mother-in-law / applicant has already shifted to a foreign country and is residing with her daughter and son-in-law in America.

24. A bald allegation that respondent no. 2 was deprived of love and affection of her mother-in-law would also not amount to cruelty. Although said fact, if considered along with other circumstances may become important but in the facts and circumstances of the case, the aforesaid allegation would not amount to cruelty.

25. Considering the totality of the facts and circumstances of the case, this Court is of the considered opinion that even if the entire allegations made in the FIR are accepted on their face value, still no offence under Sections 498-A, 506/34 of IPC read with Section 3/ 4 of Dowry Prohibition Act would be made out.

26. Consequently, FIR in Crime No.108/2021 registered at Police Station Mahila Thana, Madan Mahal, Jabalpur, for offence under Sections 498-A, 506 r/w Section 34 of IPC and Section 3, 4 of Dowry Prohibition Act and criminal prosecution qua the applicant Smt. Alka Sharma, are hereby **quashed**.

27. The application succeeds and is hereby **allowed**.

(G.S. AHLUWALIA)
JUDGE