THE HIGH COURT OF MADHYA PRADESH
MCRC-26941-2020
Kasturi Devi and others Vs. State of MP and another

Gwalior, Dated : 29.09.2020

Shri Komal Chand Jakhodia, Counsel for the applicants.

Shri Abhishek Sharma, Counsel for the State.

Heard through Video Conferencing.

This petition under Section 482 of Cr.P.C. has been filed for quashing the FIR in Crime No. 261/2020 registered by Police Station Kotwali Datia District Datia for offence under Section 498-A of IPC and Section 3/4 of Dowry Prohibition Act.

Undisputed facts are that the applicant No. 1 is the mother-in-law, No. 2 is the father-in-law, No. 3 is the husband and No. 4 is the younger brother-in-law (Devar) of the complainant.

The respondent No. 2/complainant lodged a FIR on 01.06.2020 alleging that she got married to the applicant No. 3 on 14.02.2016 in Lucknow. Her father had given a cash of Rs.5.00 lacs along with other household articles and gold ornaments. For two years after the marriage, her in-laws treated her properly but thereafter started harassing her for bringing less dowry and started abusing as well as beating her. After she conceived, she was left in her parental home where She gave birth to a girl baby child in District Hospital, Datia. After 3-4 months of birth of her child, the applicants No. 2 and 3 took her to Lucknow, but again the applicants started harassing her and treating her with cruelty by alleging that on one hand, she has not brought any dowry and now she has given birth to a girl child and

started passing taunts that now who will bear the expenses of her education and marriage and, accordingly, they instructed the complainant to ask her parents to prepare a FDR in the name of child for an amount of Rs.5.00 lacs. On 14.03.2019 the applicants No. 2 and 3 left her and her child in her parental home and from thereafter, the complainant is residing in her parental home. Her father and her relatives tried to convince her in-laws, but they did not mould their conduct and insisted that unless and until a FDR of Rs.5.00 lacs is prepared in the name of baby girl, they would not allow her to live with them.

Challenging the FIR lodged by the complainant, it is submitted by the counsel for the applicants that it is incorrect to say that the applicant No. 2 had come to Datia for leaving the complainant in her parental home because on the said date, he was on duty. The applicants have also filed a copy of the daily attendance sheet as Annexure P-2. It is further submitted that since the applicant No. 3 has filed a petition for grant of divorce and only after receiving the notice of the same, the FIR has been lodged, therefore, the FIR is liable to be quashed. It is further submitted that since the allegations are that the applicants have demanded a FDR of Rs.5.00 lacs in the name of baby girl, therefore, it cannot be said that the said demand was made in connection with marriage and thus, no *prima facie* case is made out for prosecuting the applicants. It is further submitted that

even otherwise, the allegations which have been made against the applicants are false and the FIR has been lodged belatedly because according to the complainant herself, she was left in her parental home on 14.03.2019 whereas the FIR has been lodged on 01.06.2020. It is further submitted that since a major part of the allegations took place at Lucknow, therefore, the Police Station Kotwali Datia District Datia has no jurisdiction to investigate the matter.

Heard the learned counsel for the applicants.

So far as the question of plea of alibi of the applicant No. 2 is concerned, although the applicants have relied upon the attendance sheet to show that the applicant No. 2 was on duty on 14.03.2019 but in absence of any formal proof of this document, this Court cannot rely upon the same for the purposes of the quashment of the FIR. It is well established principle of law that the defence of plea of alibi has to be proved beyond reasonable doubt. Further, in the light of the judgment passed by the Supreme Court in the case of **State of Orissa Vs. Devendra Nath Padhi** reported in **(2005) 1 SCC 568**, this Court cannot look into the defence of the suspects / accused for the quashment of the FIR.

The next contention of the applicants is that the FIR has been lodged after receiving the notice of divorce petition, which has been filed by the applicant and, therefore, it suffers from malafides. The

question is no more *res integra*. The Supreme Court in the case of **Pratibha Vs. Rameshwari Devi** reported in **(2007) 12 SCC 369,** in which it has been held as under :

> **16.** It is pertinent to note that the complaint was filed only when all efforts to return to the matrimonial home had failed and Respondent 2 husband had filed a divorce petition under Section 13 of the Hindu Marriage Act, 1955. That apart, in our view, filing of a divorce petition in a civil court cannot be a ground to quash criminal proceedings under Section 482 of the Code as it is well settled that criminal and civil proceedings are separate and independent and the pendency of a civil proceeding cannot bring to an end a criminal proceeding even if they arise out of the same set of facts. Such being the position, we are, therefore, of the view that the High Court while exercising its powers under Section 482 of the Code has gone beyond the allegations made in the FIR and has acted in excess of its jurisdiction and, therefore, the High Court was not justified in quashing the FIR by going beyond the allegations made in the FIR or by relying on extraneous considerations.

Accordingly, the FIR in question cannot be quashed only on the ground that it was lodged after the receipt of service of notice of divorce petition. On the contrary, it appears that the respondent waited with hope and belief that with passage of time, the conduct of her in-laws may improve and this conduct of the complainant to save her matrimonial life cannot be said to be a malafide act on her part. On the contrary, it can be presumed that the complainant was trying to save her married life and only when she released that the things have gone beyond control / repairs, only then she lodged the FIR. Accordingly, the FIR in question cannot be quashed on the ground

that it was lodged after the institution of the divorce proceedings.

It is next contended by the counsel for the applicants that according to the complainant, the allegations are that the applicants were demanding a FDR of Rs.5.00 lacs in the name of baby girl and since this demand was not in relation to the marriage, therefore, it would not come within the definition of dowry and, accordingly, submitted that even if the allegations are accepted as true, no offence under Section 498-A of IPC would be made out.

Considered the submissions made by the counsel for the applicants.

The Supreme Court in the case of **Rajinder Singh Vs. State of Punjab** reported in **(2015) 6 SCC 477** has held as under:-

> **"11.** This Court has spoken sometimes with divergent voices both on what would fall within "dowry" as defined and what is meant by the expression "soon before her death". In *Appasaheb* v. *State of Maharashtra*, this Court construed the definition of dowry strictly, as it forms part of Section 304-B which is part of a penal statute. The Court held that a demand for money for defraying the expenses of manure made to a young wife who in turn made the same demand to her father would be outside the definition of dowry. This Court said: (SCC p. 727, para 11)
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> > *11*. "… A demand for money on account of some financial stringency or for meeting some urgent domestic expenses or for purchasing manure cannot be termed as a demand for dowry as the said word is normally understood. The evidence adduced by the prosecution does not, therefore, show that any demand for 'dowry' as defined in Section 2 of the Dowry Prohibition Act was made by the appellants as what was allegedly asked for

was some money for meeting domestic expenses and for purchasing manure."

12. This judgment was distinguished in at least four other judgments (see *Bachni Devi* v. *State of Haryana*, SCC at pp. 432-34; *Kulwant Singh* v. *State of Punjab*, SCC at p. 185; *Surinder Singh* v. *State of Haryana*, SCC at pp. 139-41 and *Raminder Singh* v. *State of Punjab*, SCC at p. 586). The judgment was, however, followed in *Vipin Jaiswal* v. *State of A.P.*, SCC at pp. 687-88.

13. In order to arrive at the true construction of the definition of dowry and consequently the ingredients of the offence under Section 304-B, we first need to determine how a statute of this kind needs to be interpreted. It is obvious that Section 304-B is a stringent provision, meant to combat a social evil of alarming proportions. Can it be argued that it is a penal statute and, should, therefore, in case of ambiguity in its language, be construed strictly?

19. In *Reema Aggarwal* v. *Anupam*, in construing the provisions of the Dowry Prohibition Act, in the context of Section 498-A, this Court applied the mischief rule made immortal by *Heydon's case* and followed Lord Denning's judgment in *Seaford Court Estates Ltd.* v. *Asher*, where the learned Law Lord held: (*Seaford Court Estates Ltd. case*, KB p. 499)

> "… *He must set to work on the constructive task of finding the intention of Parliament, and he must do this not only from the language of the statute, but also from a consideration of the social conditions which gave rise to it and of the mischief which it was passed to remedy*, and then he must supplement the written word so as to give "force and life" to the intention of the legislature." (*Reema Aggarwal case*, SCC p. 213, para 25)
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> (emphasis in original)

The Court gave an expansive meaning to the word "husband" occurring in Section 498-A to include persons who entered into a relationship with a woman even by feigning to be a husband. The Court held: (*Reema Aggarwal case*, SCC p. 210, para 18)

> *18*. "… It would be appropriate to construe the expression 'husband' to cover a person who

> enters into marital relationship and under the colour of such proclaimed or feigned status of husband subjects the woman concerned to cruelty or coerces her in any manner or for any of the purposes enumerated in the relevant provisions—Sections 304-B/498-A, whatever be the legitimacy of the marriage itself for the limited purpose of Sections 498-A and 304-B IPC. Such an interpretation, known and recognised as purposive construction has to come into play in a case of this nature. The absence of a definition of 'husband' to specifically include such persons who contract marriages ostensibly and cohabit with such woman, in the purported exercise of their role and status as 'husband' is no ground to exclude them from the purview of Section 304-B or 498-A IPC, viewed in the context of the very object and aim of the legislations introducing those provisions."
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> **20.** Given that the statute with which we are dealing must be given a fair, pragmatic, and common sense interpretation so as to fulfil the object sought to be achieved by Parliament, we feel that the judgment in *Appasaheb case* followed by the judgment of *Vipin Jaiswal* do not state the law correctly. We, therefore, declare that any money or property or valuable security demanded by any of the persons mentioned in Section 2 of the Dowry Prohibition Act, at or before or at any time after the marriage which is reasonably connected to the death of a married woman, would necessarily be in connection with or in relation to the marriage unless, the facts of a given case clearly and unequivocally point otherwise."

Recently, the Supreme Court in the case of **Jatinder Kumar Vs. State of Haryana** by order dated **17.12.2019** passed in **Cr.A. No. 1850/2010** has held that a demand of fifty thousand for extension of clinic would be a demand of dowry.

Further 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.
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> *Explanation*.—For the purposes of this section, "cruelty" means—
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> (*a*) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
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> (*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.

From the plain reading of Section 498-A of IPC, it is clear that where cruelty is with a view to coerce the woman 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, then the act of the accused would be punishable under Section 498-A of IPC. Section 498-A of IPC is not confined to demand of dowry only. Accordingly, in the light of the judgment passed by the Supreme Court in the case of **Rajinder Singh (Supra)** and **Jatinder Kumar (supra)**, as well as in the light of definition of curelty as provided under Section 498-A of IPC, it is held that a demand of FDR of Rs.5.00 lacs in the name of baby girl would certainly come within the purview of unlawful demand and,

accordingly, the contention of the applicants that no offence would be made out under Section 498-A of IPC is hereby rejected.

So far as the contention of the counsel for the applicants that since the atrocities were committed at Lucknow, therefore, the Police Station Kotwali at Datia had no jurisdiction to investigate the offence is concerned, the same is misconceived. In the FIR itself, it is specifically mentioned that on 14.03.2019 the applicants No. 2 and 3 left her in her parental home. Compelling a married woman to live in her parental home itself amounts to a cruelty and further when the wife has been ousted from her matrimonial house due to non-fulfillment of unlawful demand, then this act of the applicants would certainly amount to cruelty.

The Supreme Court in the case of **Rupali Vs. State of U.P.** reported in **(2019) 5 SCC 384** has held as under :

> **14.** "Cruelty" which is the crux of the offence under Section 498-A IPC is defined in *Black's Law Dictionary* to mean "the intentional and malicious infliction of mental or physical suffering on a living creature, esp. a human; abusive treatment; outrage (abuse, inhuman treatment, indignity)". Cruelty can be both physical or mental cruelty. The impact on the mental health of the wife by overt acts on the part of the husband or his relatives; the mental stress and trauma of being driven away from the matrimonial home and her helplessness to go back to the same home for fear of being ill-treated are aspects that cannot be ignored while understanding the meaning of the expression "cruelty" appearing in Section 498-A of the Penal Code. The emotional distress or psychological effect on the wife, if not the physical injury, is bound to continue to traumatise the wife even

after she leaves the matrimonial home and takes shelter at the parental home. Even if the acts of physical cruelty committed in the matrimonial house may have ceased and such acts do not occur at the parental home, there can be no doubt that the mental trauma and the psychological distress caused by the acts of the husband including verbal exchanges, if any, that had compelled the wife to leave the matrimonial home and take shelter with her parents would continue to persist at the parental home. Mental cruelty borne out of physical cruelty or abusive and humiliating verbal exchanges would continue in the parental home even though there may not be any overt act of physical cruelty at such place.

15. The Protection of Women from Domestic Violence Act, as the object behind its enactment would indicate, is to provide a civil remedy to victims of domestic violence as against the remedy in criminal law which is what is provided under Section 498-A of the Penal Code. The definition of "domestic violence" in the Protection of Women from Domestic Violence Act, 2005 contemplates harm or injuries that endanger the health, safety, life, limb or well-being, whether mental or physical, as well as emotional abuse. The said definition would certainly, for reasons stated above, have a close connection with Explanations (a) & (b) to Section 498-A of the Penal Code which define "cruelty". The provisions contained in Section 498-A of the Penal Code, undoubtedly, encompass both mental as well as the physical well-being of the wife. Even the silence of the wife may have an underlying element of an emotional distress and mental agony. Her sufferings at the parental home though may be directly attributable to commission of acts of cruelty by the husband at the matrimonial home would, undoubtedly, be the consequences of the acts committed at the matrimonial home. Such consequences, by itself, would amount to distinct offences committed at the parental home where she has taken shelter. The adverse effects on the mental health in the parental home though on account of the acts committed in the matrimonial home would, in our considered view, amount to commission of cruelty within the meaning of Section 498-A at the parental home. The consequences of the cruelty committed at the

> matrimonial home results in repeated offences being committed at the parental home. This is the kind of offences contemplated under Section 179 CrPC which would squarely be applicable to the present case as an answer to the question raised.
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> **16.** We, therefore, hold that the courts at the place where the wife takes shelter after leaving or driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, would, dependent on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498-A of the Penal Code.

Since the applicants have compelled the complainant / respondent No. 2 to reside in her parental home along with her minor daughter, due to non-fulfillment of their unlawful demand, this Court is of the considered opinion that this act of the applicants also amounts to a cruelty and since a part of cause of action has arisen within the territorial jurisdiction of Police Station Kotwali District Datia, therefore, the contention of the counsel for the applicants that the Police Station Kotwali, Distt Datia lacks territorial jurisdiction is misconceived and it is hereby rejected.

So far as the delay in lodging the FIR is concerned, undisputedly, the same is not barred by time. Thus, the FIR cannot be quashed on the ground that it was not lodged immediately. On the contrary, it appears that the complainant must be waiting for the things to improve, but only when She realized that the things have gone beyond repairs, the FIR was lodged.

It is well established principle of law that this Court while exercising the power under Section 482 of Cr.P.C. for quashment of the FIR cannot conduct a roving enquiry and a FIR can be quashed only if uncontroverted allegations do not make out a *prima facie* case. Thus, this Court cannot enter into a factual arena to find out the truthfulness of the allegations made in the FIR.

The Supreme Court in the case of **S. Khushboo v. Kanniammal** reported in **(2010) 5 SCC 600** has held as under :

> **17.** In the past, this Court has even laid down some guidelines for the exercise of inherent power by the High Courts to quash criminal proceedings in such exceptional cases. We can refer to the decision in *State of Haryana* v. *Bhajan Lal* to take note of two such guidelines which are relevant for the present case: (SCC pp. 378-79, para 102)
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> "(*1*) Where the allegations made in the first information report or the 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.
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> * * *
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> (*7*) 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."
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> **18.** It is of course a settled legal proposition that in a case where there is sufficient evidence against the accused, which may establish the charge against him/her, the proceedings cannot be quashed. In *Medchl Chemicals & Pharma (P) Ltd.* v. *Biological E. Ltd.* this Court observed that a criminal complaint or a charge-sheet can only be quashed by superior courts in exceptional circumstances, such as when the allegations in a complaint do not support a prima facie case for an offence.
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> **19.** Similarly, in *Zandu Pharmaceutical Works Ltd.* v. *Mohd. Sharaful Haque* this Court has held that criminal

proceedings can be quashed but such a power is to be exercised sparingly and only when such an exercise is justified by the tests that have been specifically laid down in the statutory provisions themselves. It was further observed that superior courts "*may examine the questions of fact*" when the use of the criminal law machinery could be in the nature of an abuse of authority or when it could result in injustice.

20. In *Shakson Belthissor* v. *State of Kerala* this Court relied on earlier precedents to clarify that a High Court while exercising its inherent jurisdiction should not interfere with a genuine complaint but it should certainly not hesitate to intervene in appropriate cases. In fact it was observed: (SCC pp. 478, para 25)

> "*25*. … '*16*. … One of the paramount duties of the superior courts is to see that a person who is apparently innocent is not subjected to persecution and humiliation on the basis of a false and wholly untenable complaint.'[*]"

The Supreme Court in the case of **Amit Kapoor v. Ramesh Chander** reported in **(2012) 9 SCC 460** has held as under :

> **27.** Having discussed the scope of jurisdiction under these two provisions i.e. Section 397 and Section 482 of the Code and the fine line of jurisdictional distinction, now it will be appropriate for us to enlist the principles with reference to which the courts should exercise such jurisdiction. However, it is not only difficult but is inherently impossible to state with precision such principles. At best and upon objective analysis of various judgments of this Court, we are able to cull out some of the principles to be considered for proper exercise of jurisdiction, particularly, with regard to quashing of charge either in exercise of jurisdiction under Section 397 or Section 482 of the Code or together, as the case may be:
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> **27.1.** Though there are no limits of the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with

circumspection and that too in the rarest of rare cases.

27.2. The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.

27.3. The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

27.4. Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loath to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.

27.5. Where there is an express legal bar enacted in any of the provisions of the Code or any specific law in force to the very initiation or institution and continuance of such criminal proceedings, such a bar is intended to provide specific protection to an accused.

27.6. The Court has a duty to balance the freedom of a person and the right of the complainant or prosecution to investigate and prosecute the offender.

27.7. The process of the court cannot be permitted to be used for an oblique or ultimate/ulterior purpose.

27.8. Where the allegations made and as they appeared from the record and documents annexed therewith to predominantly give rise and constitute a “civil wrong” with no “element of criminality” and does not satisfy the basic ingredients of a criminal offence, the court may be justified in quashing the charge. Even in such cases, the court would not embark upon the critical analysis of the evidence.

27.9. Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction; the court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.

27.10. It is neither necessary nor is the court called upon to hold a full-fledged enquiry or to appreciate evidence collected by the investigating agencies to find out whether it is a case of acquittal or conviction.

27.11. Where allegations give rise to a civil claim and also amount to an offence, merely because a civil claim is maintainable, does not mean that a criminal complaint cannot be maintained.

27.12. In exercise of its jurisdiction under Section 228 and/or under Section 482, the Court cannot take into consideration external materials given by an accused for reaching the conclusion that no offence was disclosed or that there was possibility of his acquittal. The Court has to consider the record and documents annexed therewith by the prosecution.

27.13. Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie.

27.14. Where the charge-sheet, report under Section 173(2) of the Code, suffers from fundamental legal defects, the Court may be well within its jurisdiction to frame a charge.

27.15. Coupled with any or all of the above, where the Court finds that it would amount to abuse of process of the Code or that the interest of justice favours, otherwise it may quash the charge. The power is to be exercised *ex debito justitiae* i.e. to do real and substantial justice for administration of which alone, the courts exist.

[Ref. *State of W.B.* v. *Swapan Kumar Guha Madhavrao Jiwajirao Scindia* v. *Sambhajirao Chandrojirao Angre*; *Janata Dal* v. *H.S. Chowdhary*; *Rupan Deol Bajaj* v. *Kanwar Pal Singh Gill*; *G. Sagar Suri* v. *State of U.P.*; *Ajay Mitra* v. *State of M.P.*; *Pepsi Foods Ltd.* v. *Special Judicial Magistrate*; *State of U.P.* v. *O.P. Sharma*; *Ganesh Narayan Hegde* v. *S. Bangarappa*; *Zandu Pharmaceutical Works Ltd.* v. *Mohd. Sharaful Haque*; *Medchl Chemicals & Pharma (P) Ltd.* v. *Biological E. Ltd.*; *Shakson Belthissor* v. *State of Kerala*; *V.V.S. Rama Sharma* v. *State of U.P.*; *Chunduru Siva Ram Krishna* v. *Peddi Ravindra Babu*;

Sheonandan Paswan v. *State of Bihar*; *State of Bihar* v. *P.P. Sharma*; *Lalmuni Devi* v. *State of Bihar*; *M. Krishnan* v. *Vijay Singh*; *Savita* v. *State of Rajasthan* and *S.M. Datta* v. *State of Gujarat*.]

27.16. These are the principles which individually and preferably cumulatively (one or more) be taken into consideration as precepts to exercise of extraordinary and wide plenitude and jurisdiction under Section 482 of the Code by the High Court. Where the factual foundation for an offence has been laid down, the courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied if there is substantial compliance with the requirements of the offence.

28. At this stage, we may also notice that the principle stated by this Court in *Madhavrao Jiwajirao Scindia* was reconsidered and explained in two subsequent judgments of this Court in *State of Bihar* v. *P.P. Sharma* and *M.N. Damani* v. *S.K. Sinha*. In the subsequent judgment, the Court held that, that judgment did not declare a law of universal application and what was the principle relating to disputes involving cases of a predominantly civil nature with or without criminal intent.

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.

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.

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.

The Supreme Court in the case of **M.N. Ojha v. Alok Kumar Srivastav** reported in **(2009) 9 SCC 682** has held as under :

30. Interference by the High Court in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure can only be where a clear case for such interference is made out. Frequent and uncalled for interference even at the preliminary stage by the High Court may result in causing obstruction in progress of the inquiry in a criminal case which may not be in the public interest. But at the same time the High Court cannot refuse to exercise its jurisdiction if the interest of justice so required where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no fair minded and informed observer can ever reach a just and proper conclusion as to the existence of sufficient grounds for proceeding. In such cases refusal to exercise the jurisdiction may equally result in injustice more particularly in cases where the complainant sets the criminal law in motion with a view to exert pressure and harass the persons arrayed as accused in the complaint.

31. It is well settled and needs no restatement that the saving of inherent power of the High Court in criminal matters is intended to achieve a salutary public purpose

> "which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. [If such power is not conceded, it may even lead to injustice.]"
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> (See *State of Karnataka* v. *L. Muniswamy*, SCC p. 703, para 7.)

32. We are conscious that

> "inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice. That statutory power has to be exercised sparingly, with circumspection and in the rarest of rare cases".

(See *Kurukshetra University* v. *State of Haryana*, SCC p. 451, para 2.)

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.

Accordingly, this Court is of the considered opinion that since the FIR discloses commission of cognizable offences and in the light of the judgment passed by the Supreme Court in the case of **Lalita Kumari Vs. Government of U.P. and others** reported in **(2014) 2 SCC 1**, the police authorities are under obligation to register the FIR, this Court is of the considered opinion that no case is made out for quashing the FIR in Crime No. 261/2020 registered by Police Station Kotwali Datia District Datia for offence under Section 498-A of IPC and Section 3/4 of Dowry Prohibition Act.

Accordingly, this application fails and is hereby **dismissed.**

(G.S. Ahluwalia)
Judge

Abhi