



IN THE HIGH COURT OF MADHYA PRADESH

AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 7th OF MARCH, 2025

MISC. CRIMINAL CASE No. 35841 of 2021

SANDEEP SHAKYA

Versus

THE STATE OF MADHYA PRADESH AND ANOTHER

Appearance:

Shri Brajesh Kumar Tyagi, Advocate for the applicant.
Dr. Anjali Gyanani, Public Prosecutor for respondent No.1/State.
Shri H.K. Singh Chauhan, Advocate for respondent No.2.

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MISC. CRIMINAL CASE No. 40764 of 2021

SANDEEP SHAKYA

Versus

THE STATE OF MADHYA PRADESH AND ANOTHER

Appearance:

Shri Brajesh Kumar Tyagi, Advocate for applicant.
Dr. Anjali Gyanani, Public Prosecutor for respondent No.1/State.
Shri H.K.Singh Chauhan, Advocate for respondent No.2.

ORDER

By this common order, M.Cr.C. No.35841/2021 and M.Cr.C. No.40764/2021
are being decided.



2. For the sake of clarity, it is pointed out that M.Cr.C. No. 35841/2021 has been filed seeking quashment of FIR in Crime No. 274/2021 registered at Police Station Padav, District Gwalior for offences under sections 294, 323 and 506 of IPC, whereas M.Cr.C. No. 40764/2021 has been filed seeking quashment of FIR No. 504/2021 registered at Police Station Gwalior, District Gwalior for offences under sections 294, 323, 506 and 498A read with 34 of IPC.

3. Applicant is husband of respondent No.2.

4. It is the case of applicant that FIR in Crime No.274/2021 was lodged by respondent No.2 alleging that on 3/7/2021, at about 12.30 PM, she was in her matrimonial house and was doing house-hold work. At that time, applicant came there and started arguing/debating on trivial issues. When she objected that what is the reason for such argument, then he started abusing her filthily in the name of mother and sister. When she objected to it, then applicant assaulted her by fists and blows, as a result she sustained injuries on various parts of her body. Thereafter, applicant went out of the house after extending a threat that in case if the incident is narrated to her parents, then she would be killed. Thereafter, she informed the incident to her uncle on phone and, accordingly, FIR was lodged.

Similarly, FIR in Crime No.504/2021 was lodged on the allegation that her husband Sandeep Shakya, mother-in-law, father-in-law and younger brother-in-law were harassing her physically and mentally on the ground that she could not give birth to a boy whereas she is having a girl child. On 3/7/2021, she was in her matrimonial house and when came out of the bathroom, then her husband Sandeep Shakya, after catching hold of her hair, dragged her and her father-in-law, mother-in-law and younger brother-in-law assaulted her by fists and blows. They also threatened that she should leave her matrimonial house and they will perform second marriage of applicant because they want that they should be blessed with a boy child. On 2/8/2021, at about 8 PM, she was in her parental home. Applicant came there and started abusing her filthily in the name of mother



and sister. When she objected to it, then she was slapped by applicant as a result she sustained injury on her neck. Her right hand was also twisted. When her brother Bhupesh Shakya and Jyotistra Shakya tried to save her, then they too were slapped by applicant. The incident was witnessed by Prashant Shakya and Ashish Shakya. Thereafter, applicant left her parental home on Aactiva and while going back extended a threat that in case if report is lodged then she would be killed.

5. It is submitted by counsel for applicant that applicant got married to respondent No.2 in the year 2009 and from the year 2009 to 2021, no complaint was ever made. There is no demand of dowry. Allegations have been made absolutely by way of counterblast to FIR lodged by applicant and both the FIRs are product of malafide. It is submitted by counsel for applicant that family members of respondent No.2 had abused and beaten the applicant and, therefore, applicant had lodged an FIR which was registered as Crime No.503/2021 and, therefore, both the FIRs are counterblast to the FIR lodged by applicant.

6. Considered the submissions made by counsel for applicant.

Whether an FIR under S.498A of IPC can be registered in absence of demand of dowry or not ?

7. S.498A of IPC reads as under:-

"498A. 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 purpose of this section, “cruelty” means—

(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

(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.”



Therefore, from a plain reading of this section it is clear that demand of dowry is not a *sine qua non* for registration of an offence under S.498A of IPC and any willful conduct which is of such nature as is likely to drive a woman to commit suicide or to cause grave injury or danger to life, limb or health of woman is also a cruelty. Therefore, physical and mental cruelty on any account would be a cruelty within the meaning of S.498A of IPC.

8. The Supreme Court in the case of **Aluri Venkata Ramana Vs. Aluri Thirupathi Rao & Ors.** by order dated 12/12/2024 passed in SLP (Criminal) No. 9243/2024 has held as under:-

10. The statement of objects and reasons for the introduction of this provision in the Indian Penal Code by The Criminal Law (Second Amendment) Act, 1983 (Act No.45 of 1983) reads as under –

"The increasing number of Dowry Deaths is a matter of serious concern. The extent of the evil has been commented upon by the Joint Committee of the Houses to examine the working of Dowry Prohibition Act, 1961. Cases of cruelty by the husband and the relatives of the husband which culminate in suicide by, or murder of, the hapless woman concerned, constitute only a small fraction of the cases involving such cruelty. It is therefore proposed to amend the Indian Penal Code, the Code of Criminal Procedure and the Indian Evidence Act suitably to deal effectively not only with cases of Dowry Death but also cases of cruelty to married woman by their in laws."

11. It is relevant to note the last line which explains that the aim for the introduction of Section 498A in the IPC is not only to curb cruelty relating to dowry demand but also cases of cruelty to married woman by their in laws. A reasonable interpretation of this would be that cruelty within this section goes beyond the definition of cruelty relating just to dowry demand.

12. In the judgment of **U.Suvetha v. State** this Court outlined the necessary ingredients required to establish an offence under Section 498A of the IPC, as follows:

"7. Ingredients of Section 498-A of the Penal Code are:

(a)The woman must be married;



- (b) She must be subjected to cruelty or harassment; and
- (c) Such cruelty or harassment must have been shown either by husband of the woman or by the relative of her husband.”

13. From the above ingredients reiterated by this Court, it is clear that an unlawful demand for dowry is not a prerequisite element to constitute "cruelty" under Section 498A IPC. It suffices that the conduct falls within either of the two broad categories outlined in clauses (a) or (b) of the provision, namely, wilful conduct likely to cause grave injury or mental harm (clause a), or harassment intended to coerce the woman or her family to meet any unlawful demand (clause b). Therefore, either form of cruelty, independent of a dowry demand, is sufficient to attract the provisions of Section 498A IPC and make the offence punishable under the law.

14. Further, in the judgment of **Arvind Singh v. State of Bihar**, this Court observed that –

“25. word ‘cruelty’ in common English acceptation denotes a state of conduct which is painful and distressing to another. The legislative intent in Section 498–A is clear enough to indicate that in the event of there being a state of conduct by the husband to the wife or by any relative of the husband which can be attributed to be painful or distressing, the same would be within the meaning of the section”

9. Therefore, the contention of counsel for applicant that in absence of any demand of dowry it cannot be said that offence under S.498A, IPC was committed, is misconceived and is, hereby, rejected.

Whether allegations made in both the FIRs are false because no complaint was ever made by respondent No.2 from the date of her marriage till 2021 ?

10 Domestic violence takes place within the four corners of a house, and generally, a woman does not lodge an FIR, in order to save her marital life. If an FIR is lodged in respect of each and every act of cruelty, then the marital life of the woman would be in serious jeopardy. Therefore, in order to save her matrimonial life, a woman generally does not lodge an FIR until and unless the



cruelty crosses all limits of her tolerance. Merely because respondent no. 2 did not lodge an FIR from the date of her marriage till 2021, it would not mean that the allegations made in the FIR are false.

11. Under the circumstances, it is clear that the FIR cannot be quashed merely on the ground of absence of a previous complaint.

12. In the light of judgments passed by the Supreme Court in the cases of **XYZ v. State of Gujarat** reported in (2019) 10 SCC 337, **State of Tamil Nadu Vs. S. Martin & Ors.** reported in (2018) 5 SCC 718, **Ajay Kumar Das v. State of Jharkhand**, reported in (2011) 12 SCC 319, **Mohd. Akram Siddiqui v. State of Bihar** reported in (2019) 13 SCC 350, **State of A.P. v. Gourishetty Mahesh** reported in (2010) 11 SCC 226, **M. Srikanth v. State of Telangana**, reported in (2019) 10 SCC 373, **CBI v. Arvind Khanna** reported in (2019) 10 SCC 686, **State of MP Vs. Kunwar Singh** by order dated 30.06.2021 passed in Cr.A. No.709/2021, **Munshiram v. State of Rajasthan**, reported in (2018) 5 SCC 678, **Teeja Devi v. State of Rajasthan** reported in (2014) 15 SCC 221, **State of Orissa v. Ujjal Kumar Burdhan**, reported in (2012) 4 SCC 547, **S. Khushboo v. Kanniammal** reported in (2010) 5 SCC 600, **Sangeeta Agrawal v. State of U.P.**, reported in (2019) 2 SCC 336, **Amit Kapoor v. Ramesh Chander** reported in (2012) 9 SCC 460, **Padal Venkata Rama Reddy Vs. Kovuri Satyanarayana Reddy** reported in (2012) 12 SCC 437 and **M.N. Ojha v. Alok Kumar Srivastav** reported in (2009) 9 SCC 682, this Court can quash the proceedings only if the uncontroverted allegations do not make out an offence.

13. The Supreme Court in the case of **Neeharika Infrastructure Private Limited Vs. State of Maharashtra and Others** reported in (2021) 19 SCC 401 has held as under:-

"13. From the aforesaid decisions of this Court, right from the decision of the Privy Council in **Khwaja Nazir Ahmad** [King Emperor v. Khwaja Nazir Ahmad, 1944 SCC OnLine PC 29: (1943-44) 71 IA 203: AIR 1945 PC 18], the following principles



of law emerge:

13.1. Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences.

13.2. Courts would not thwart any investigation into the cognizable offences.

13.3. However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on.

13.4. The power of quashing should be exercised sparingly with circumspection, in the "rarest of rare cases". (The rarest of rare cases standard in its application for quashing under Section 482 CrPC is not to be confused with the norm which has been formulated in the context of the death. penalty, as explained previously by this Court.)

13.5. While examining an FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint.

13.6. Criminal proceedings ought not to be scuttled at the initial stage.

13.7. Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule.

13.8. Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 CrPC.

13.9. The functions of the judiciary and the police are complementary, not overlapping.

13.10. Save in exceptional cases where non- interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences.

13.11. Extraordinary and inherent powers of the Court do not



confer an arbitrary jurisdiction on the Court to act according to its whims or caprice.

13.12. The first information report is not an encyclopedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

13.13. The power under Section 482 CrPC is very wide, but conferment of wide power requires the Court to be cautious. It casts an onerous and more diligent duty on the Court.

13.14. However, at the same time, the Court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in R.P. Kapur [R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21: AIR 1960 SC 866] and Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335: 1992 SCC (Cri) 426], has the jurisdiction to quash the FIR/complaint.

13.15. When a prayer for quashing the FIR is made by the alleged accused, the Court when it exercises the power under Section 482 CrPC, only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR."

14. Accordingly, the aforesaid contention raised by counsel for the applicant is hereby rejected.

Whether FIRs were lodged by way of a counterblast to the FIR lodged

**by the applicant or not?**

15. From MCRC No. 35841 of 2021 and MCRC No. 40674 of 2021, it is clear that two FIRs were lodged by respondent no. 2, whereas one FIR was lodged by applicant. The first FIR lodged by respondent no. 2 is registered as Crime No. 274/2021 at Police Station Padav, Gwalior, according to which the incident took place on 03/07/2021, whereas the second FIR lodged by respondent no. 2 was registered as Crime No. 504/2021, according to which the incident took place on 02/08/2021.

16. The applicant also lodged an FIR, which was registered as Crime No. 503/2021 at Police Station Gwalior, District Gwalior, for offences under Sections 294, 323, 506 read with 34 of IPC. In this FIR, it was alleged by applicant that two months ago, he had given his Scooty to his brother-in-law Bhupesh Kumar Shakya. At about 8:30 p.m., he brought his Scooty back from the house of his brother-in-law Bhupesh Kumar Shakya. On this issue, Bhupesh Kumar Shakya, Prashant Shakya, Harsh alias Harshal Shakya and Rakesh Shakya came and scolded him as to why he had brought the Scooty back and directed that it should be re-parked in their house. When applicant informed them that the Scooty belongs to him, all four persons started abusing him filthily. When he objected, then Prashant and other accused persons assaulted him by kicks and fists. While fleeing away, they were saying that applicant should return the Scooty; otherwise, he would be killed.

17. According to the FIR in Crime No. 503/2021, the incident took place on 02/08/2021. Similarly, in FIR 504/2021, it was alleged by respondent no. 2 that the incident took place on 02/08/2021 in the parental home of respondent No.2. If the FIR lodged by the applicant is considered, then it is clear that he has admitted that he went to the house of the father of respondent no. 2 and brought his Scooty back, whereas according to FIR in Crime No. 504/2021, it is clear that respondent no. 2 had alleged that the applicant came to her parental home, assaulted her, and



thereafter went away on the Scooty. Thus, it is clear that applicant went to the parental house of respondent No. 2 and brought the Scooty back. Whether applicant had assaulted respondent No.2 in her parental home, or brother of respondent No.2 came to the house of applicant and assaulted him on the pretext of bringing the Scooty back, is a disputed question of fact.

18. Under these circumstances, this Court is of considered opinion that while exercising powers under S.482 of Cr.P.C., this Court cannot conduct a mini trial to adjudicate the correctness of allegations made in the FIR, specifically when counter FIR lodged by applicant at the same time, partially supports the FIR lodged by respondent No.2.

19. Furthermore, FIR No.274/2021 which was registered at Police Station Padav, District Gwalior on complaint of respondent No.2 cannot be said to be an FIR by way of counter-blast because that FIR was in relation to incident which took place on 03/07/2021 and was lodged on 3-7-2021, i.e. much prior to 2.8.2021.

20. Accordingly, contention of applicant that FIRs in Crime Nos.504/2021 and 274/2021 were lodged by way of counterblast to the FIR lodged by applicant in Crime No.503/2021, is hereby rejected.

Malafides of informant

21. In order to claim the defence that FIRs have been lodged by respondent No.2 by way of malafides, applicant has relied upon the FIR lodged by him in Crime No.503/2021.

22. So far as malafides are concerned, Supreme Court in the case of **Renu Kumari Vs. Sanjay Kumar and others** reported in **(2008) 12 SCC 346** has held that where the allegations make out a cognizable offence, then malafides of complainant become secondary. The Supreme Court in the case of **Renu Kumari (Supra)** has held as under:-

9. “8. Exercise of power under Section 482 CrPC in a case of this nature is the exception and not the rule. The section



does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of CrPC. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under CrPC, (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. The courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognises and preserves inherent powers of the High Courts. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in the course of administration of justice on the principle of *quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsae esse non potest* (when the law gives a person anything, it gives him that without which it cannot exist). While exercising the powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section, though wide, has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised *ex debito justitiae* to do real and substantial justice for the administration of which alone the courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has the power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers the court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would



otherwise serve the ends of justice. When no offence is disclosed by the report, the court may examine the question of fact. When a report is sought to be quashed, it is permissible to look into the materials to assess what the report has alleged and whether any offence is made out even if the allegations are accepted in toto.

9. In *R.P. Kapur v. State of Punjab* [AIR 1960 SC 866 : (1960) 3 SCR 388] this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings:

- (i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;
- (ii) where the allegations in the first information report or complaint taken at their face value and accepted in their entirety do not constitute the offence alleged;
- (iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge. (AIR p. 869)

10. In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 CrPC, 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. Judicial process should not be an instrument of oppression, or, needless harassment. The court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death. The scope of exercise of power under Section 482 CrPC and the categories of cases where the High Court may exercise its



power under it relating to cognizable offences to prevent abuse of process of any court or otherwise to secure the ends of justice were set out in some detail by this Court in *State of Haryana v. Bhajan Lal* [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426 : AIR 1992 SC 604] . A note of caution was, however, added that the power should be exercised sparingly and that too in the rarest of rare cases. The illustrative categories indicated by this Court are as follows : (SCC pp. 378-79, para 102)

‘(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.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the



aggrieved party.

(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.’

11. As noted above, the powers possessed by the High Court under Section 482 CrPC are very wide and the very plenitude of the power requires great caution in its exercise. The court must be careful to see that its decision, in exercise of this power, is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. [See *Janata Dal v. H.S. Chowdhary* [(1992) 4 SCC 305 : 1993 SCC (Cri) 36 : AIR 1993 SC 892] and *Raghbir Saran (Dr.) v. State of Bihar* [AIR 1964 SC 1 : (1964) 1 Cri LJ 1].] It would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the complaint cannot be proceeded with. When an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in the court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the



proceedings. [See *Dhanalakshmi v. R. Prasanna Kumar* [1990 Supp SCC 686 : 1991 SCC (Cri) 142] , *State of Bihar v. P.P. Sharma* [1992 Supp (1) SCC 222 : 1992 SCC (Cri) 192] , *Rupan Deol Bajaj v. Kanwar Pal Singh Gill* [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059] , *State of Kerala v. O.C. Kuttan* [(1999) 2 SCC 651 : 1999 SCC (Cri) 304] , *State of U.P. v. O.P. Sharma* [(1996) 7 SCC 705 : 1996 SCC (Cri) 497] , *Rashmi Kumar v. Mahesh Kumar Bhada* [(1997) 2 SCC 397 : 1997 SCC (Cri) 415], *Satvinder Kaur v. State (Govt. of NCT of Delhi)* [(1999) 8 SCC 728 : 1999 SCC (Cri) 1503] and *Rajesh Bajaj v. State NCT of Delhi* [(1999) 3 SCC 259 : 1999 SCC (Cri) 401] .]”

The above position was again reiterated in *State of Karnataka v. M. Devendrappa* [(2002) 3 SCC 89 : 2002 SCC (Cri) 539] , *State of M.P. v. Awadh Kishore Gupta* [(2004) 1 SCC 691 : 2004 SCC (Cri) 353] and *State of Orissa v. Saroj Kumar Sahoo* [(2005) 13 SCC 540 : (2006) 2 SCC (Cri) 272] , SCC pp. 547-50, paras 8-11."

Thus, it is clear that where allegations make out a cognizable offence, then malafides of informant loses its importance.

23. In the present case, FIR in Crime No.274/2021 was lodged on the allegation of assaulting and abusing respondent No.2. There is no reason to disbelieve the said allegation. Similarly, FIR in Crime No.504/2021 was lodged on ground of abusing and assaulting respondent No.2 which is also supported by medical evidence.

24. Under these circumstances, it cannot be said that the FIRs lodged by respondent No.2 were the outcome of malafide intention.

25. No other arguments were advanced.

26. Accordingly, both the applications fail and are, hereby, dismissed.

(G.S. Ahluwalia)
Judge