

**IN THE HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE.**

**SINGLE BENCH : HON'BLE SHRI JUSTICE ALOK VERMA**

**M.Cr.C. No.3848/2016**

**Deepak Tejwani and others**

**Vs.**

**State of M.P. and another**

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Shri Ajay Bagadia, learned counsel for the applicants.

Shri Sudhanshu Vyas, learned counsel for respondent No.1/State.

Shri S.M. Sanyal, learned counsel for respondent No.2.

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**ORDER**

**(Passed on 22/12/2016)**

This application is filed under Section 482 Cr.P.C. for seeking quashment of FIR registered at Crime No.40/2016 against the applicants under Section 498A/34 of IPC and Section 4 of Dowry Prohibition Act.

2. The relevant facts are that the applicant No.1 married respondent No.2 on 14.05.2015 according to Hindu Rites and Rituals at Indore. At the time of marriage, applicant No.1 was working at Mumbai with TCS and was to shift to USA in relation to his job immediately after marriage. The VISA formalities of the complainant was also undertaken before the marriage ceremony.

However, as the VISA formalities could not be completed, applicant No.1 went to USA alone on 01.06.2015. After completing the VISA formalities when VISA was granted to the complainant/respondent No.2, she also travelled to America on 14.07.2015.

**3.** Immediately on reaching America, according to applicants, disputes emerged between the couple. On 11.09.2015, she left house of applicant No.1 and went away with some unknown person. Subsequently, applicant No.1 was informed by father of the complainant that she was at her brother's house at Delaware, USA. According to applicants, her behaviour during her stay at America was not proper. She used to busy in pool parties, alcohol, pubs and meeting other male members. When the disputes further developed, a divorce petition was filed by the applicant No.1 which was duly granted by a Court in America. The divorce was granted on the ground of irretrievable marriage.

**4.** Subsequently, the complainant came back to India, she filed this complaint. This application is filed on the ground that the applicants No.2, 3 and 4 are father, mother and sister respectively of applicant No.1. The complainant hardly lived with applicants No.2, 3 and 4, and therefore, there can be no case of cruelty so far applicants No.2, 3 and 4 are concerned. There was no demand of dowry and infact all the expenditure of marriage

was shared by the applicant No.1 and his family.

5. The FIR did not disclose any specific time, place and date of alleged demand of dowry. The complainant is having illicit relationship with other persons and only knowing about the divorce, as a counter blast, the FIR is filed.

6. The respondent No.2 opposes the application firstly on the ground that as per the provision of M.P. High Court Rules, 2008, certified copy of the documents should be filed, however, no certified copy of FIR is filed. It is further alleged that decree of foreign Court is a nullity in India. The marriage took place in India according to Hindu Rites and Rituals, and therefore, it cannot be annulled by a Court in America and for this purpose, respondent No.2 relies on principles laid down by Hon'ble Apex Court in case of **Neerja Saraph vs. Jayant V. Saraph; (1994) 6 SCC 461**. Respondent No.2 also filed copies of various messages showing that the applicant No.1 had a relationship with a girl whose name is Rupal Gupta.

7. Learned counsel for the applicants in response submits that there is no need to file certified copy of FIR. There is no provision of law which enables the applicants to get the certified copy of FIR. The FIR was downloaded by Internet. If the complainant is of the view that this is not a correct FIR then she is free to file the copy of the correct FIR but no such copy is filed.

8. After taking into consideration the contention of both the counsel, I find that the provision so far as the certified copy of the FIR is concerned is baseless. The contention is of the FIR has not been challenged by the complainant and no other copy of FIR has been filed by her, and therefore, this objection cannot be sustained and accordingly, ruled out.

9. So far as the quashment of FIR is concerned, the divorce decree granted by foreign Court whether applicable in this case or not is a point to be determined by trial court, and therefore, at this stage, no comment can be made. The only fact is taken into consideration that the complainant vehemently opposes the grant of such decree, but the foreign Court, it appears dismissed her objection on technical ground and proceeded to grant the decree. The effect of this fact may also be taken by the trial court at this stage so far as applicant No.1 is concerned, in considered opinion of this Court, no case is made out, and therefore, this application so far as it relates to applicant No.1 appears devoid of any force and liable to be dismissed. So far as applicants No.2 to 4 are concerned, the FIR does not disclose any specific allegation against them. The only allegation is that when she came back from USA and complaint about behaviour of her husband and her in-laws that is applicants No.2 to 4, they misbehaved with her and said that the marriage was not performed according to their

expectations. Expensive clothes were not given to their relatives and four-wheeler was also not given to applicant No.1. On their demand, her father gives them Rs.1,50,000/- for purchase A.C. and other furnitures and then an allegation was made that her father-in-law, mother-in-law and sister-in-law also committed mental and physical cruelty on her. This is just an omnibus allegation, and therefore, so far as the applicants No.2 to 4 are concerned, there appears to be no ground to proceed against them. This appears only an abuse of process of Court, and therefore, this application so far it relates to applicants No.2 to 4 deserves to be allowed.

**10.** Accordingly, this application so far it relates to applicant No.1 is dismissed and is allowed in relation to applicants No.2 to 4. The FIR arising out of Crime No.40/2016 under Section 498A/34 of IPC and Section 4 of Dowry Prohibition Act and all the proceedings arising therefrom in relation of applicants No.2 to 4 are hereby quashed. The applicants No.2 to 4 are discharged from offence under Section 498A/34 of IPC and Section 4 of Dowry Prohibition Act.

The proceedings against the applicant No.1 shall continue.

**( Alok Verma )**  
**Judge**