

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

**BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 20<sup>th</sup> OF FEBRUARY, 2024**

**MISC. CRIMINAL CASE No. 38258 of 2022**

**BETWEEN:-**

1. MADHU AGRAWAL W/O RAJENDRA AGRAWAL, AGED ABOUT 55 YEARS, OCCUPATION: HOUSEHOLD 102, POOJADEEP APARTMENT, 1, AGRAWAL NAGAR, DISTRICT INDORE (MADHYA PRADESH)
2. SAROJ KANODIA W/O SUNIL KANODIA, AGED ABOUT 52 YEARS, OCCUPATION: HOUSEHOLD A-403, SECTOR-7 SUNCITY, S.P. RING ROAD, BOPAL JANSANG, AHemdabad (GUJARAT) (GUJARAT)
3. DAMODAR PRASAD AGRAWAL S/O LATE DEDRAJ AGRAWAL, AGED ABOUT 66 YEARS, OCCUPATION: BUSINESS B-371, SHASTRI NAGAR, DISTRICT BHILWARA RAJASTHAN (RAJASTHAN)

**.....PETITIONERS**

***(BY SHRI AKHIL GODHA – ADVOCATE)***

**AND**

1. THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH POLICE STATION MAHILA THANA DISTRICT INDORE (MADHYA PRADESH)
2. SARIKA AGRAWAL W/O RAJENDRA AGRAWAL, AGED ABOUT 43 YEARS, OCCUPATION: BUSINESS 119, 121,

**CHANAKYA COMPLEX MALWA MILL,  
DISTRICT INDORE (MADHYA PRADESH)**

**.....RESPONDENTS**

**(BY SHRI SANTOSH SINGH THAKUR – G.A. FOR RESPONDENT  
NO.1/STATE AND SHRI SANJAY CHOUHAN – ADVOCATE FOR  
RESPONDENT NO.2)**

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

**ORDER**

1] Heard.

2] This petition has been filed by the petitioners under Section 482 of Cr.P.C. for quashing the FIR lodged at Crime No.72 of 2022 dated 09.04.2022, under Sections 498-A, 323, 294, 506 and 34 of IPC and Sections 3 & 4 of Dowry Prohibition Act, 1961 at Police Station Mahila Thana, Indore.

3] In brief, the facts of the case are that the petitioner Nos.1 and 2 are the sisters of Rajendra Agrawal (the husband of the respondent No.2/complainant Sarika Agrawal), whereas the petitioner No.3 is the uncle of Rajendra Agrawal. The case of the prosecution is that the marriage of Rajendra Agrawal was solemnized with the complainant Sarika Agrawal on 04.12.1999, and out of this marriage, they also have two daughters. The FIR in the present case has been lodged on 09.04.2022 under the aforesaid offences alleging demand of dowry and cruel treatment of the respondent No.2 at the hands of her husband, his mother, and the present petitioners. After the aforesaid FIR was lodged, charge-sheet has

already been filed and the trial is in progress.

4] Shri Akhil Godha, learned counsel for the petitioners has submitted that so far as the present petitioners are concerned, the petitioner Nos.1 and 2 are the sister-in-laws, whereas the petitioner No.3 is the uncle of respondent No.2's husband, and they have absolutely nothing to do with the offence as alleged by the respondent No.2, as the respondent No.2 had resided with her husband at Jaipur in Rajasthan, on the other hand, the petitioner No.1, who was married in the year 1987, is residing since then at Indore, whereas the petitioner No.2, whose marriage was solemnized in the year 1991, is residing at Ahmadabad since then, and petitioner No.3 is the resident of Bhilwada, Rajasthan and the role ascribed to him is that he was instrumental in the marriage of the complainant with her husband Rajendra Agrawal.

5] Counsel has drawn the attention of this Court to the FIR as also the other documents filed along with the charge-sheet to submit that apart from omnibus allegations levelled against the present petitioners, there is nothing on record to connect them with the aforesaid offence. Counsel has also drawn the attention of this Court to the earlier police complaint made by the complainant/respondent No.2 at Police Station Malviya Nagar, Jaipur (Rajasthan) on 18.06.2013, in which the only allegations are against the husband of the complainant and the mother-in-law, and there is not a whisper about the present petitioners being involved in any manner. Similarly, when the complainant again started residing with her husband and mother-in-law, she again left her house, and

lodged another complaint on 10.04.2021 at Police Station – Jawahar Circle, Jaipur, Rajasthan alleging ill-treatment by her husband and mother-in-law. Thus, it is submitted even on a bare perusal of the charge-sheet itself no case, as alleged by the prosecution is made out so far as the present petitioners are concerned.

6] In support of his submissions, Shri Godha has also relied upon a decision rendered by the Supreme Court in the case of **Kahkashan Kausar @ Sonam & Ors. Vs. State of Bihar & Ors.** reported as **2022 (6) SCC 599.**

7] Shri Sanjay Chouhan, learned counsel for the respondent No.2/complainant has opposed the prayer and it is submitted that no case for interference is made out as the specific allegations have been levelled against the petitioners in the FIR itself. Counsel has also submitted that in respect of demand of dowry, even the letter sent by the mother-in-law of the complainant is also placed on record in which she has demanded various articles to the tune of Rs.4 lakhs. However, it is not denied that in the aforesaid letter, there is no reference of the present petitioners having involved in any manner in raising the said demand.

8] Counsel for the State has also opposed the prayer.

9] Having considered rival submissions, perusal of the documents filed on record, it is found that in the earlier two complaints made by the respondent No.2 wife i.e. on 18.06.2013 and 10.04.2021, which are also in respect of the ill-treatment meted out to the complainant by her husband and mother-in-law, there is no reference of the present petitioners being involved in any

manner. However, their names have appeared for the first time in the FIR only which was lodged on 09.04.2022, wherein omnibus allegations have been levelled against them. It is also found none of the petitioners are the residents of Jaipur and in fact petitioner No.1 is the resident of Indore, M.P. whereas the petitioner No.2 is the resident of Ahmadabad, Gujarat and the petitioner No.3 is the resident of Bhilwada, Rajasthan. Thus, it is highly unlikely that these persons, who are already residing in different places, since many decades would ever demand any dowry from the complainant, which is also substantiated by the complaints made by the complainant as aforesaid in the police station at Jaipur.

**10]** The Supreme Court in the case of **Kahkashan kausar @ Sonam & Ors. (supra)** has held as under:-

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**12.** Before we delve into greater detail on the nature and content of allegations made, it becomes pertinent to mention that incorporation of Section 498-AIPC was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid State intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as Section 498-AIPC as instruments to settle personal scores against the husband and his relatives.

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**14.** Previously, in the landmark judgment of this Court in *Arnesh Kumar v. State of Bihar Anr. (2014) 8 SCC 273* it was also observed:-

*“4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-AIPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-AIPC is a*

*cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In quite a number of cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested.”*

**15. Further in *Preeti Gupta v. State of Jharkhand & Anr.* (2010) 7 SCC 667 it has also been observed:-**

*“32. It is a matter of common experience that most of these complaints under Section 498-AIPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.*

*33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.*

*34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.*

*35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into*

*consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinised with great care and circumspection.*

*36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of an amicable settlement altogether. The process of suffering is extremely long and painful.”*

**16. In *Geeta Mehrotra v. State of U.P. & Anr (2012) 10 SCC 741* it was observed:-**

*“21. It would be relevant at this stage to take note of an apt observation of this Court recorded in *G.V. Rao v. L.H.V. Prasad* [*G.V. Rao v. L.H.V. Prasad*, (2000) 3 SCC 693 : 2000 SCC (Cri) 733] wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that :*

*“there has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their cases in different courts.”*

*The view taken by the Judges in this matter was that the courts would not encourage such disputes.”*

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18. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-AIPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.”

(emphasis supplied)

11] A perusal of the aforesaid decision also reveals that the Supreme Court has considered the outburst of the matrimonial dispute in recent times and the trend of false implication of the family members of the husband. In such facts and circumstances of the case, this Court is of the considered opinion that the present case is a perfect example as to how the family members of the husband are harassed by the wife. In charge sheet filed at Crime No.72 of 2022 dated 09.04.2022 under Sections 498-A, 323, 294, 506 and 34 of IPC and Sections 3 & 4 of Dowry Prohibition Act, 1961 at Police Station Mahila Thana, Indore, so far it relates to the petitioner Nos.1 to 3 are concerned, is hereby **quashed and consequently, the subsequent proceedings pending against them in the trial Court are also hereby quashed as the continuation of the same would be nothing but the sheer misuse of the process of the court.**

12] Accordingly, the petition stands **allowed.**



**13]** It is made clear that this Court has not reflected anything in respect of the respondent No.2's husband and mother-in-law.

**(SUBODH ABHYANKAR)**  
**JUDGE**

**Pankaj**