

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

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

ON THE 11th OF JANUARY, 2024

MISC. CRIMINAL CASE No. 6026 of 2022

BETWEEN:-

1. SMT. KAUSAR KHAN W/O
LATE SHRI HAROON KHAN,
AGED ABOUT 61 YEARS,
OCCUPATION: HOUSEWIFE,
age- 61 Years, R/o 50, GALI NO. 1
KUMAR WADA, KHARGONE
(MADHYA PRADESH)
2. IMRAN KHAN S/O LATE SHRI
HAROON KHAN, AGED ABOUT
41 YEARS, OCCUPATION:
MEDICAL STORE OWNER, R/O
50, GALI NO. 1, KUMAR WADA
(MADHYA PRADESH)
3. WASIM UR REHMAN S/O LATE
SHRI SHAFIQ UR REHMAN,
AGED ABOUT 39 YEARS,
OCCUPATION: PROPERTY
BROKER, R/O SHANKAR
MANDIR ROAD, NEAR JAMUN
WALI MAJZID, KILA, ASHTA
DISTRICT- SEHORE (MADHYA
PRADESH)
4. SMT. NAZIA REHMAN W/O
WASIM UR REHMAN, AGED
ABOUT 36 YEARS,
OCCUPATION: HOUSEWIFE,
R/O SHANKAR MANDIR ROAD,
NEAR JAMUN WALI MAJZID,
KILA, ASHTA, DISTRICT-
SEHORE (MADHYA PRADESH)
5. IRFAN KHAN S/O LATE SHRI
HAROON KHAN, AGED ABOUT

**36 YEARS, OCCUPATION:
MANAGER IN ICICI BANK R/O
F-2, CITY HEIGHT, LALA
LAJPAT RAI COLONY, NEAR
PRABHAT CIRCLE, ASHOKA
GARDEN, BHOPAL (MADHYA
PRADESH)**

.....PETITIONERS

(BY SHRI RAGHVENDRA SINGH RAGHUVANSHI- ADVOCATE)

AND

- 1. THE STATE OF MADHYA
PRADESH STATION HOUSE
OFFICER THROUGH POLICE
STATION MIG (MADHYA
PRADESH)**
- 2. SMT. SHAZIA W/O IRFAN
KHAN, AGED ABOUT 29
YEARS, OCCUPATION: GUEST
FACULTY IN ENGINEERING
DEPARTMENT IN DAVV,
INDORE 9, RANADE
COMPOUND, OLD PALASIA
(MADHYA PRADESH)**

.....RESPONDENTS

***(BY SHRI VISHAL PANWAR- PANEL LAWYER FOR THE RESPONDENT/STATE
MS. SHANNO SHAGUFTA KHAN- ADVOCATE FOR RESPONDENT NO.2)***

Reserved on : 11.01.2024

Pronounced on : 18 .03.2024

*This petition having been heard and reserved for orders, coming on
for pronouncement this day, the court passed the following:*

ORDER

By this petition preferred under Section 482 of the Code of Criminal Procedure, the petitioners/accused have prayed for quashment of charge

sheet dated 23.12.2020 forming subject matter of RCT No.594/2021 pending before the Judicial Magistrate, First Class- Indore arising out of Crime No.277/2020 registered at Police Station MIG, Indore for offences punishable under Section 323, 294, 498-A, 34 of the IPC.

2. As per the prosecution, on 26.06.2020 a report was lodged by the complainant/respondent No.2, to the effect that she was married to accused No.5 on 31.01.2018. At the time of marriage her parents had given considerable amount of articles to the accused by way of dowry on demand having been raised by them in that regard. They included jewelry also. Her mother-in-law, accused No.1 was however dissatisfied with the quantity of the dowry and immediately after marriage started ill-treating her. She used to instigate accused No.5 who consequently used to abuse her. Accused No.3 Wasim had once brought a meat of deer and she was asked to cook the same and upon her refusal accused No.5 had beaten her. Once he had turned her out of the house and had not opened the door. He used to get angry time and again and used to beat her. He had asked the complainant to ask her father to get a flat for them at Ranade Compound. On 03.08.2018 accused No.5 found out that she is pregnant whereupon he beat her and forced her to get an abortion done. In October, 2019 he again repeated demand for a flat. The same was also done by accused No.1. Accused No.5 used to have physical relationship with her against her will as a result of which her health deteriorated but he did not get her treated. In December, accused No.2 and 3 came to her father and asked him for a flat at Ranade compound. On 24.01.2020 when she went to her matrimonial house she was turned out of the same.

3. On lodging of the report by the complainant, FIR was registered and investigation was commenced during the course of which statements of

various witnesses were recorded and after completion of investigation charge sheet has been filed by the Police before the Court concerned.

4. This petition has been preferred by the accused on the ground that allegations as levelled by the complainant against them are false and fabricated. No act as alleged by the complainant has ever been committed by the accused and they have never harassed her or her family members by raising any demand of dowry. The allegations are omnibus in nature and no specific overt act has been attributed to any of the accused. The allegations are vague and concocted. The proceedings instituted by complainant are an abuse of process of law. Accused No.1 is residing at Khargone with other co-accused and they have never lived along with complainant and accused No.5. Accused Nos.3 and 4 are brother-in-law and sister-in-law of complainant who live in different city i.e Aasta, District Sehore and have their separate family. Their names have been included by complainant solely with the purpose of implicating all the family members. No allegations in their regard have been levelled. The complainant has lived happily and peacefully with accused No.5 who always treated her properly hence there was no question of any harassment having been meted out to the complainant by him. The complainant was involved in extra matrimonial relationship with a third person and when the same got exposed she threatened to commit suicide. She apologized for the same also in February, 2019. It is thus she who has always been at fault and for covering up the same has lodged the instant complaint. She had deserted accused No.5 who had hence sent a legal notice to her on 24.06.2010 but she did not come back to the matrimonial house and instead has lodged the false FIR. There is no corroboration of the allegation of the complainant as regard her forceful abortion. It is evident that the entire complaint is false and made up. It hence

submitted that FIR registered against the accused and all consequential proceedings pursuant thereto be quashed. Reliance has been placed by the learned counsel for the petitioners on the decision of Supreme Court in *Geeta Mehrotra and another vs. State of Uttar Pradesh and another*, (2012)10 SCC 741 and *Rajiv Thapar and others vs. Madanlal Kapoor*, (2023)3 SCC 330.

5. *Per contra*, learned counsel for the respondent/State as well as learned counsel for the complainant have submitted that there is sufficient material available on record to proceed with against the accused. Specific overt act has been attributed by complainant in respect of their acts and it cannot be said that allegations against them are omnibus in nature. The accused have harassed the complainant ever since her marriage with accused No.5. hence petition deserves to be dismissed.

6. I have heard the learned counsel for the parties and have perused the case diary as well as the documents filed by the accused along with this petition.

7. From a perusal of the complaint made by the complainant as well as her statement it is revealed that therein she has levelled specific allegations against accused No.1 and accused No.5 as regards them treating her with cruelty ever since the marriage between her and accused No.5. She has given specific instances with dates and particulars when such cruelty was inflicted by them upon her and demand of dowry was made from her and her parents in the shape of a flat. These allegations are quite detailed and the place of occurrence has also been mentioned by the complainant. The statement of the complainant in this regard is also corroborated by statements of the other witnesses recorded by the Police. The complainant has stated that accused No.1 harassed her since the very beginning of her

marriage with accused No.5 on account of inadequate dowry having been given in the marriage had demanded her to get more dowry from her father. Time and again the accused No.5 has demanded a flat from the complainant and her father as has been narrated in quite detail by complainant. It hence cannot be said that the allegations levelled against accused No.1 & 5 are omnibus in nature and do not make out any offence against them.

8. However, in so far as accused Nos.2, 3 & 4 are concerned, it is observed that accused No.2 is the father-in-law and accused No.3 & 4 are Nanand and Nandoi of the complainant. Accused No.4 has not even been alleged at any place by the complainant to have ever made any demand of dowry from her or her parents. Though her name appears in passing but there is no allegation against her in any regard whatsoever. The allegation against accused No.2 and 3 is only that in December they had gone to house of father of the complainant and had demanded a flat from him. However, their allegation appears to be absolutely omnibus and general in nature. In any case the allegation is that the father of the complaint should give a flat at Ranade compound so that the dispute between complainant and accused No.5 comes to an end. It is nowhere stated by the complainant that the said demand was made in the shape of dowry. Prior to that date ever since the marriage of the complainant with accused No.5 there is no allegation whatsoever that accused No.2 & 3 ever made any demand of dowry either her or her parents. It is hence clear as noon day that allegation levelled by the complainant in respect of them is only for the purpose of ensuring that all possible family members of accused No.5 are implicated in the matter. It is absolutely unbelievable that accused No.2 & 3 would make demand of dowry just prior to the time when the FIR was lodged by the complainant and not at any prior point of time. There is absolutely no material against

them and the allegations as levelled by the complainant even if taken to be true at their face value do not make out any offence against them. The statements of the parents of the complainant and other witnesses in this regard would hardly be of any significance and appear to be by way of improvement when they have tried to implicate accused No.2 & 3. They have tried to allege much more than what the complainant has herself .

9. In so far as the documents filed by the accused are concerned, including the photographs and CD etc. it cannot be said only on their basis that no demand of dowry has been made by accused No.1 & 5 from the complainant. In any case these are not documents of impeachable quality and are in fact documents of accused which would be required to be proved by them before the trial Court at the stage of their defence. Only on the basis of these documents filed by the accused in present proceedings the FIR cannot be quashed against accused No.1 & 5. The allegation that the complainant was in extra marital relationship with another person and when the same got exposed she threatened to commit suicide and thereafter apologized for the same and executed a mafinama are also matters of evidence and would be required to be proved by the accused. At this stage they cannot be taken to be gospel truth. Only on the basis of the same the allegation of demand of dowry by accused No.1 & 5 from the complainant cannot be wiped out. The notice issued by accused No.5 to the complainant on the lines of her extra marital affair by itself cannot negate the allegations levelled by the complainant. There are clear allegations by the complainant as regards accused No.5 getting her forced abortion done and only for absence of documents in that regard the same cannot be totally disbelieved. There is hence sufficient material available on record to proceed against accused No.1 & 5.

10. As a consequence of the aforesaid discussion, the petition deserves to be and is partly allowed. The FIR bearing No.277/2020 registered at Police Station MIG, Indore against accused No.2, 3 & 4 and the charge sheet filed against them before the JMFC Indore forming subject matter of RCT No. 594/2021 are hereby quashed. However, finding there to be sufficient material available on record to proceed with against accused No.1 & 5, their petition deserves to be and is hereby dismissed.

11. The petition is partly allowed and disposed off.

(PRANAY VERMA)
JUDGE

jjyoti