

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

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 25th OF JULY, 2024

MISC. CRIMINAL CASE No. 38414 of 2023

MAHARSHI AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Aman Mourya- Advocate for the petitioner.

Shri Vinod Thakur- P.L./G.A. for the State.

Shri Lucky Jain- Advocate for the respondent No.2.

ORDER

- 1] Heard finally, with the consent of the parties.
- 2] This petition under Section 482 of Cr.P.C. has been filed by the petitioners for quashing the FIR lodged at Crime No.141/2023, registered at Police Station Mahila Thana, Indore, under Sections 498-A, 323, 294, 506 and 34 of the Indian Penal Code, 1860 and Section 3/4 of Dowry Prohibition Act, 1961 and the proceedings arising out of the aforesaid crime number.
- 3] In brief, the facts of the case are that the petitioner No.1's marriage with the respondent No.2 was solemnized on 24.05.2021. The petitioner Nos.2 and 3 are the father and mother of the petitioner

No.1. In the present case, the FIR has been lodged by the respondent No.2 on 28.07.2023, alleging harassment at the hands of the petitioners and the brother of the petitioner No.1 Devarshi. It is also alleged that the petitioners started demanding a Creta car and Rs.15 lakhs from the parents of the respondent No.2. It is also alleged by the respondent No.2 that the petitioners had also assaulted her and treated her with cruelty. The present petition has been filed for the quashment of the aforesaid FIR.

4] Counsel for the petitioners has submitted that the petitioner No.1 is a software professional, is engaged in animation work, and is presently residing in Bombay, whereas the petitioner Nos.2 and 3 are the residents of Indore. It is submitted that the marriage of the petitioner No.1 with the respondent No.2 was the second marriage for both of them, and after the marriage, they were residing in Bombay only. It is also submitted that in the entire FIR, only omnibus allegations have been levelled, and although the charge-sheet has already been filed, but apart from the bald statements, there is nothing on record to substantiate the allegations of the respondent No.2.

5] Counsel has also submitted that the petitioner No.1 had sent a notice to the respondent No.2 on 14.03.2023, for restitution of conjugal rights or to take divorce by mutual consent, and thereafter, the FIR has been lodged on 28.07.2023. Thus, it is submitted that the FIR is a counterblast to the notice sent by the petitioner No.1 to the respondent No.2, and a cooked-up story has been created by the respondent No.2 in the FIR. It is further submitted that the petitioners are well educated, and from a well to do family, and there was no

occasion for them to demand any dowry from the respondent No.2. It is submitted that the petitioner No.2 Kishore Vyas happens to be a retired DSP, and his son, the petitioner No.1 is a software professional, and even otherwise, the petitioners No.1 and 2 were residing at Indore only.

6] It is also submitted that the petitioner No.1 had also commenced a freelancing work in the name of his wife, the respondent No.2, and the remuneration of the same was credited directly in the account of the respondent No.2, the documents regarding which have also been filed on record. Counsel has also drawn the attention of this Court to the various amounts which were credited in the account of the respondent No.2, to the tune of Rs.2,86,942/- on 07.03.2022; Rs.3,00,000 on 21.07.2022; Rs.71,320,- on 04.08.2022 and Rs.45000/- on 15.09.2022 etc.

7] Counsel has also drawn the attention of this Court to the various receipts regarding e-payment to various restaurants/eateries of Mumbai to substantiate that the respondent No.2 was allowed to order the food from market and the petitioner No.1 never objected to the same. It is also submitted that a Creta car has already been purchased by the petitioners in the name of petitioner No.1 on 25.06.2022, and there was no occasion for them to demand the same from the parents of the respondent No.2. Thus, it is submitted that the petitioners are being harassed by the respondent No.2 for no apparent reason, and only to wreak a vengeance, the FIR has been lodged and the same deserves to be quashed.

8] In support of his submissions, counsel for the petitioners has relied upon a decision rendered by the Supreme Court in the case of *Kahkashan Kausar Alias Sonam and Others Vs. State of Bihar and Others* reported as *AIROnline 2022 SC 95*; *Abhishek Vs. State of Madhya Pradesh* passed in *Criminal Appeal No.1457 of 2015* dated *31.08.2023* reported as *2023 SCC OnLine SC 1083* and *Rukmini Narvekar Vs. Vijaya Satardekar and Others* reported as *(2008) 14 SCC 1, para 38*.

9] Counsel for the respondent No.2, on the other hand, has opposed the prayer and although no reply has been filed, it is submitted that no case for interference is made out, as the respondent No.2 has made specific allegations against the petitioners and her pregnancy was also aborted on account of the conduct of the petitioners, and despite conciliation, the petitioners were bent upon to demand Rs.15 lakhs and a Creta car from the parents of respondent No.2, which has led the respondent No.2 to file the FIR. Thus, it is submitted that the petition be dismissed.

10] Counsel for the State, has also opposed the prayer and it is submitted that no case for interference is made out.

11] Heard counsel for the parties and perused the record.

12] Before this Court proceeds further with the merits of the case, it would be fruitful to refer to the decision of the Supreme Court in the case of *Abhishek (supra)* which deals with the growing tendency of falsely implicating the family members of the husband in a matrimonial dispute, wherein the Supreme Court has held as under:-

“13. Instances of a husband's family members filing a

petition to quash criminal proceedings launched against them by his wife in the midst of matrimonial disputes are neither a rarity nor of recent origin. Precedents aplenty abound on this score. We may now take note of some decisions of particular relevance. Recently, in *Kahkashan Kausar alias Sonam v. State of Bihar* [(2022) 6 SCC 599], this Court had occasion to deal with a similar situation where the High Court had refused to quash a FIR registered for various offences, including Section 498A IPC. Noting that the foremost issue that required determination was whether allegations made against the in-laws were general omnibus allegations which would be liable to be quashed, this Court referred to earlier decisions wherein concern was expressed over the misuse of Section 498A IPC and the increased tendency to implicate relatives of the husband in matrimonial disputes. This Court observed that false implications by way of general omnibus allegations made in the course of matrimonial disputes, if left unchecked, would result in misuse of the process of law. On the facts of that case, it was found that no specific allegations were made against the in-laws by the wife and it was held that allowing their prosecution in the absence of clear allegations against the in-laws would result in an abuse of the process of law. It was also noted that a criminal trial, leading to an eventual acquittal, would inflict severe scars upon the accused and such an exercise ought to be discouraged.”

(Emphasis Supplied)

13] So far as the documents filed by the petitioners along with the petition are concerned, the Supreme Court, in the case of *Rukmini Narvekar (Supra)*, in para 38 has held as under:-

“38. In my view, therefore, there is no scope for the accused to produce any evidence in support of the submissions made on his behalf at the stage of framing of charge and only such material as are indicated in Section 227 Cr.P.C. can be taken into consideration by the learned magistrate at that stage. However, in a proceeding taken therefrom under Section 482 Cr.P.C. the Court is free to consider material that may be produced on behalf of the accused to arrive at a decision whether the charge as framed could be maintained. This, in my view, appears to be the intention of the legislature in wording Sections 227 and 228 the way in which they have been worded and as explained in *Debendra Nath Padhi's case (supra)* by the larger Bench to which the very same question had been referred.”

(Emphasis Supplied)

14] From the record it is found that the FIR in the present case has been lodged on 28.07.2023, in respect of the events which have taken place between 24.06.2021 and 28.07.2023. Thus, apparently, the cause of action had arisen to the respondent No.2 on 24.06.2021 itself but the FIR has been lodged after more than 2 years, although, in matrimonial matters, delay in lodging the FIR is not of much importance but where the allegations of assault are also present, it is expected to be filed within a reasonable period of time. It is found that the FIR has been lodged against all the family members of the petitioner No.1. It is also found that although the respondent No.2 has objected to the petition, but no reply to the petition has been filed and the documents filed by the petitioner have remained un rebutted.

15] It is also found that the petitioners are well educated as the petitioner No.1 himself is a software professional whereas, his father petitioner No.2 is a retired DSP, and although in the FIR it is also mentioned by the respondent No.2 that she was assaulted by the petitioner No.3 on 20.05.2023, but apparently, there is no MLC on record and subsequent to that also, as per the FIR, the efforts were also made to settle the dispute between the parties. It is also found that various amounts running into Rs.2,86,942/-, Rs.3,00,000, Rs.71,320,- and Rs.45000/- have also been credited in the account of the respondent No.2, to which there is no rebuttal on the part of the respondent No.2, and the petitioner has also placed on record various receipts of the orders placed by the respondent No.2 to various eateries in Mumbai, and there is no rebuttal of the same either. The

petitioners have also filed on record the flight details of the respondent No.2 and her boarding pass from Mumbai to Indore, as also her sonography report dated 30.06.2022, that she suffered a miscarriage. A Facebook post of the respondent No.2 Richa Upadhyay dated 12.12.2022 is also filed on record, when the petitioner and the respondent No.2 had visited *ISKCON* Temple, Mumbai. Thus, it appears that around seven months prior to lodging of the FIR, the petitioner No.1 Maharshi Vyas and the respondent No.2 Richa were having quality time together; and, it is apparent that even after the miscarriage of the respondent No.2, she was happy with the petitioner No.1. In such facts and circumstances of the case, this Court is of the considered opinion that a case for interference is made out.

16] 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-A IPC 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-A IPC 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)

17] Resultantly, the petition stands ***allowed***, and the FIR lodged at Crime No.141/2023, registered at Police Station Mahila Thana, Indore, under Sections 498-A, 323, 294, 506 and 34 of the Indian Penal Code, 1860 and Section 3/4 of Dowry Prohibition Act, 1961, and the proceedings arising out of the aforesaid crime number, are hereby ***quashed***.

18] With the aforesaid, the petition stands ***allowed*** and ***disposed of***.

(SUBODH ABHYANKAR)
JUDGE

Bahar