

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

**BEFORE**

**HON'BLE SHRI JUSTICE PREM NARAYAN SINGH**

**MISC. CRIMINAL CASE No. 39886 of 2023**

**BETWEEN:-**

1. **PRADEEP S/O SHRI UMASHANKAR TIWARI,  
AGED ABOUT 63 YEARS,  
OCCUPATION: PRESENTLY NOTHING  
R/O. B 52 SUDAMA NAGAR,  
DISTRICT INDORE (MADHYA PRADESH)**
2. **SHAKUNTALA TIWARI  
W/O PRADEEP TIWARI,  
AGED ABOUT 61 YEARS,  
OCCUPATION: PRESENTLY NOTHING  
R/O. B-52 SUDAMA NAGAR INDORE  
(MADHYA PRADESH)**
3. **PRIYA @ CHINKI  
W/O SHIKHAR SHUKLA,  
AGED ABOUT 45 YEARS,  
OCCUPATION: HOUSEWIFE  
R/O. 1/2 RASMANDAL DUTT GALI  
DIST. DHAR (MADHYA PRADESH)**

**.....APPLICANT**

***(SHRI LOKESH MEHTA - ADVOCATE)***

**AND**

1. **THE STATE OF MADHYA PRADESH  
STATION HOUSE OFFICER THROUGH  
P.S.- ANNAPURNA, INDORE  
(MADHYA PRADESH)**
2. **SUMAN SHANKAR DIXIT  
S/O SHARDA SHANKAR DIXIT  
OCCUPATION: BUSINESS  
R/O. KISHANGANJ SQUARE,  
TEH. POHARI, DIST. SHIVPURI  
(MADHYA PRADESH)**

**.....RESPONDENTS**

***(SHRI SAMEER VERMA - PANEL LAWYER)***

**MISC. CRIMINAL CASE No. 39913 of 2023**

**BETWEEN:-**

1. **ABHAY @ NIKKI TIWARI  
S/O TRIBHUVAN TIWARI,  
AGED ABOUT 29 YEARS,  
OCCUPATION: SERVICE  
R/O. A-4 PALASH PARISAR,  
106 RAU INDORE (MADHYA PRADESH)**
  
2. **RASHMI @ TINA BAJPAI  
W/O SHRI ATUL BAJPAI,  
AGED ABOUT 39 YEARS,  
OCCUPATION: HOUSEWIFE  
R/O. 460/25 NANDA NAGAR,  
INDORE (MADHYA PRADESH)**

**.....APPLICANT**

***(SHRI LOKESH MEHTA - ADVOCATE)***

**AND**

1. **THE STATE OF MADHYA PRADESH  
STATION HOUSE OFFICER THROUGH  
POLICE STATION BANK NOTE PRESS  
DEWAS (MADHYA PRADESH)**
  
2. **SHRI SUMAN SHANKAR DIXIT  
S/O SHARDA SHANKAR DIXIT  
OCCUPATION: BUSINESS  
R/O. KISHANGANJ SQUARE,  
TEH. POHARI, DIST. SHIVPURI  
(MADHYA PRADESH)**

**.....RESPONDENTS**

***(SHRI SAMEER VERMA - PANEL LAWYER)***

.....  
***Reserved on: 04.12.2023***

***Delivered on: 12.12.2023***  
.....

*These applications having been heard and reserved for order and the  
Court pronounced this day following:*

**ORDER**

This order shall govern the disposal of these miscellaneous criminal cases as they have arisen out of the same crime number of the same police station, hence, they are heard analogously and are being decided by this common order.

2. These petitions under Section 482 of Code of Criminal Procedure, 1973 (for short 'The Code'), has been preferred for quashment of F.I.R bearing crime No.230/2023, registered at police station – Annapurnan, District – Indore, against the applicants for offence punishable under Sections 304-B, 498-A, 34 of IPC, 1860 and Section 3/ 4 of Dowry Prohibition Act, 1961, the charge-sheet and the consequential proceedings in Criminal Case No. 4739/2019 pending before the trial Court.

3. The brief facts relevant to the case are that on 05.05.2023 a merg report regarding the death of deceased Indu Tiwari was registered at Police Station Annapurna on the basis of a short postmortem report received from District Hospital, Indore. In the postmortem report doctor has opined that the deceased committed suicide by hanging herself on 04.05.2023. It is alleged that the marriage of the deceased was solemnised with Gaurav Tiwari on 09.12.2013. Applicant Pradeep is father-in-law's brother (*chacha sasur*), applicant Shakuntala Tiwari is Aunt-in-law (*chachi saas*), applicant Priya @ Chinki and Rashmi @ Tina are sisters-in-law (*nanand*) and applicant - Abhay is the son of Aunt-in-law (*bhua saas*) of the deceased. Further allegation against the applicants are that they used to physically and mentally torture the deceased by assaulting and threatening her for not fulfilling their demand of dowry. On the basis of which, FIR bearing crime No.230/2023 was registered against the applicants for offence under Sections 304-B,498-A/34 of IPC, 1860 and Section 3 /4 of Dowry Prohibition Act, 1961. On completion of investigation in the present crime number, charge sheet was filed before the Judicial Magistrate First Class, Indore against the applicants.

4. Learned counsel for the applicants submits that the applicants being aunt-in-law (*chachi saas & Bhua saas*), sister-in-laws (*Nanand*), brother of

father-in-law (*chacha sasur*) are residing separately and they do not meet the deceased on daily basis. Learned counsel for the applicants has submitted that there is no specific instance against the applicants regarding demand of dowry and harassment. Only general and omnibus allegations has been made against them. They have been roped in the case only on the ground of being close relative of Gaurav Tiwari, the husband of the deceased. Even if the allegations of prosecution are taken to be true at their face value and accepted in their entirety, they do not prima facie constitute any offence or make out a case against the applicants. It is further submitted that the present case is a glaring example of growing tendency in the society to falsely implicate the close relatives of the husband. In support of his submissions learned counsel for the applicants has placed reliance upon the judgment of Hon'ble Supreme Court passed in the case of *Kahkashan Kausar alias Sonam v State of Bihar, (2022) 6 SCC 599, Geeta Mehrotra & Anr. vs. State of U.P. & Anr* reported as *2012(10) ADJ 464* and judgment passed in the case of *Mirza Iqbal @ Golu & Anr. vs. The State of Uttar Pradesh & Anr (SLP [Crl.] No.2786/2019)*. Under these circumstances learned counsel prays for quashing of the FIR bearing Crime No.230/2023 registered against the applicants and all consequential proceedings.

5. These petitions have been taken up for hearing at the initial stage and no notice has been served upon the respondent/complainant.

6. Learned Public Prosecutor for the respondent/State submitted that the prosecution case is well supported by FIR as well as the statement of witnesses recorded under Section 161 of Cr.P.C. In addition to that it is also contended on behalf of the prosecution that for want of evidence if the proceedings against

these applicants are quashed then the question shall arise as to why the proceedings of the main accused persons husband, father-in-law and mother-in-law of the deceased required to be continued under the same set of evidence hence prayed for dismissal of these petitions.

7. In the back drop of the rival submissions of counsel for the parties, on perusal of the record, it is evident that in merg enquiry, it has been narrated by the relatives of the deceased that the deceased was married with her husband on 09.12.2016, thereafter her husband Gaurav Tiwari, mother-in-law Prabha Tiwari, father-in-law Harish Tiwari, sister-in-laws Priya @ Chikki and Rashmi @ Tina; father-in-law's brother Pradeep (*Chacha sasur*), Shakuntala (*Chachi saas*) Aunt-in-law; Aunt-in-law (Bhua saas) Asha, Abhay Tiwari the son of Aunt-in-law; all have tortured the deceased for non-fulfillment of their demand of dowry. They demanded four wheeler vehicle and due to non-fulfillment of their demand they tortured her physically and mentally due to which she committed suicide. Virtually the allegations are omnibus against all the applicants along with other main accused persons husband, mother-in-law and father-in-law. Certainly, no specific allegations were made against the petitioners regarding their active participation in the aforesaid harassment of the deceased for want of dowry.

8. Now the question arises as to whether due to lack of specific allegations the proceedings initiated against the petitioners are liable to be quashed by using extraordinary power under Section 482 of Cr.P.C?

9. In this regard the reliance placed by learned counsel for the applicants in the judgment dated 17.10.2012, passed in the case of *Geeta Mehrotra & Anr., vs. State of U.P. & Ors.* reported in *212(10) ADJ 464* is taken up for consideration, in that case the crime relates to offence under Section 498-A,

323, 504, 506 of IPC, 1860 read with Section 3,4 of Dowry Prohibition Act, 1961, however, it does not relates with offence under Section 304(b) of IPC so also provision under Section 113(b) of Evidence Act as to dowry death is also not attracted, as such the factual matrix of the case are different.

10. Further in the case of *Kahkashan Kausar @ Sonam vs. The State of Bihar* reported as (2022) 6 SCC 599, referred by counsel for the applicats, offence under Sections 341, 323, 379, 354, 498-A read with Section 34 of IPC, 1860 were alleged against the applicants, whereas the presumption under Section 113(b) of Evidence Act has also not been attracted in the aforesaid case. In the case of *Mirza Iqbal @ Golu & Anr. vs. The State of U.P., (SLP No.2786/2019)* the presence of the accused was shown in the branch of ICICI Bank from 9.49 am to 6.25 pm, as such since the accused was working in ICICI Bank, Khalilabad Branch, Gorakhpur, but merely stated that there was a possibility to reach Gorakhpur (the place of incident) by 8.00 pm, hence the criminal proceedings cannot be initiated. However the fact of the case at hand have no similarity to the aforesaid case hence no benefit can be afforded to the petitioners from the aforesaid verdict.

11. On the other hand attention of this Court has been drawn towards the judgment passed in the case of *Nemichand Jain vs. Roshanlal & Ors.* reported as (2004)13 SCC 461, wherein the appeal was filed against the order passed by High Court of Rajasthan regarding quashment of charges framed against the applicant for offence under Sections 304-b and 498-A of IPC. In this case Hon'ble Apex Court has held as under:-

"That is a matter to be considered by the Court by proper appreciation of evidence and at the stage of framing charges, the High Court should not have considered the

whole evidence that there were no materials for the Court to frame charges under Sections 304-B and 498-A IPC. In view of the statements given by some of the witnesses, the High Court was not justified in quashing the charges already framed by the Sessions Court and directing the Sessions Court to frame charges exclusively for the offence under Section 306 IPC."

12. In the case of "*Ajay Kumar Das vs. State of Jharkhand and Another*" reported in (2011) 12 SCC 319, an appeal was filed against the order of Hon'ble High Court wherein it has been held as under:-

"We are, however, unable to accept the said contention at this stage for we find that there was a demand for giving cows, motor cycle and other goods. All these allegations will have to be dealt with by the Court at different stages for which liberty would be available to the appellant. In our considered opinion, this is not the stage when the Court would make an inquiry into the factual position to find out as to whether or not the appellant is guilty of the charges or not. The appellant, in our considered opinion, will have sufficient opportunity to place his entire case before the Court at the time of framing of the charge since charge sheet has already been filed against the appellant also holding that a case under Section 304-B and Section 34 is made out. We do not wish to enter into the factual details for any discussion on them at this stage as the same may prejudicially affect the case of the appellant"

" We are, however, of the considered opinion that on a reading of the First Information Report and the materials that are available in the case file of the appellant that no case is made out so as to quash the entire proceeding. Therefore, while rejecting the contention of the counsel appearing for the appellant so far quashing of the proceedings is concerned we give him the liberty to raise all his defence as may be available to him in accordance with law at the time of framing of the charge and at that stage the Court shall consider the material on record as

also the contentions raised by the appellant in proper perspective and decide the matter in accordance with law."

13. Likewise, Hon'ble Apex in the case of *Narayan Malhari Thorat vs. Vinayak Deorao Bhagat and Another* reported as (2019) 13 SCC 598 has allowed the appeal which was directed against the judgment passed by High Court of Bombay for quashing the proceedings for offence under Section 306 of IPC.

14. Before dwelling upon the contentions of the counsel for the parties, it will be appropriate to refer to the clause of 113(b) of the Evidence Act, which relates to the offence under Section 304(b) of IPC, reads as under:

"113B. **Presumption as to dowry death.**—When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

Explanation.—For the purposes of this section, “dowry death” shall have the same meaning as in section 304B, of the Indian Penal Code, (45 of 1860)."

15. Again, the Hon'ble Apex Court in the case of *State of M.P. vs. Deepak [(2019) 13 SCC 62]*, reversing the order of discharging from charges under Section 306 of IPC, has enunciated the principles which the High Courts must keep in mind while exercising their jurisdiction under the provision. In this case, endorsing another case of Hon'ble Apex Court in the case of *Amit Kapoor vs. Ramesh Chander [(2012) 9 SCC 460]* has quoted as under:-

“27... At best and upon objective analysis of various judgments of this Court, we are able to cull out some of the principles to be considered for proper exercise of



jurisdiction, particularly, with regard to quashing of charge either in exercise of jurisdiction under Section 397 or Section 482 of the Code or together, as the case may be:

27.2. The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.

***27.3. The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.***

***27.4. Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loath to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.***

27.9. Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction; the court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.

27.13. Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, ***the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal***

*the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie.*

16. It is also well settled that Section 482 of Cr.P.C can only be exercised sparingly in the in rarest of the rare cases where ends of justice demands. It can be used only to prevent the abuse of process of law and to secure the ends of justice. In the case of State of *W.B. vs. Narayan K. Patodia [AIR 2000 SC 405]* the Hon'ble Apex Court ordained that "Inherent powers of the High Court as recognized in Section 482 of the Code are reserved to be used "to give effect to any orders under the Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice."

17. In the case of *Janata Dal vs H.S. Chowdhary And Ors.* reported in *(1992) 4 SCC 305* the Hon'ble Apex Court held as under:

"132 The criminal Courts are clothed with inherent power to make such orders as may be necessary for the ends of justice. Such power though unrestricted and undefined should not be capriciously or arbitrarily exercised, but should be exercised in appropriate cases, *ex debito justitiae* to do real and substantial justice for the administration of which alone the Courts exist. The powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Courts must be careful to see that its decision in exercise of this power is based on sound principles."

135 This inherent power conferred by Section 482 of the Code 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 premature decision in a case wherein the entire facts are extremely 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 great

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 the cases in which the High Court will exercise its extraordinary jurisdiction to quashing the proceedings at any stage."

18. In another case *Paramjeet Batra vs State Of Uttarakhand & Ors (2012 Lawsuit (SC) 840)* the Hon'ble Supreme Court has ordained that while exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash criminal proceedings to prevent abuse of process of court.

19. The law laid down by the Hon'ble Apex Court will be applicable to this case also. In view of the aforesaid the matter has been perused. In the case at hand on the basis of merged statement and the statements recorded under Section 161 of Cr.P.C and also the FIR, the offence of dowry death is prima facie made out against the applicant. At this stage, this Court is not bound to contemplate regarding the result of the criminal trial as a young lady has already been expired and the applicants are facing trial in accordance with law.

20. Further the applicants are facing trial in a case where certain allegations of dowry demand and committing torture against the deceased has

been alleged against them and the same cannot be assumed as abuse of the process of law. In view of the aforesaid, this Court is of the considered view that investigation into a cognizable offence is a statutory power of police and superintendence thereof is vested with the State Government, therefore, it will not be justified in interfering the matter without legitimate reasons.

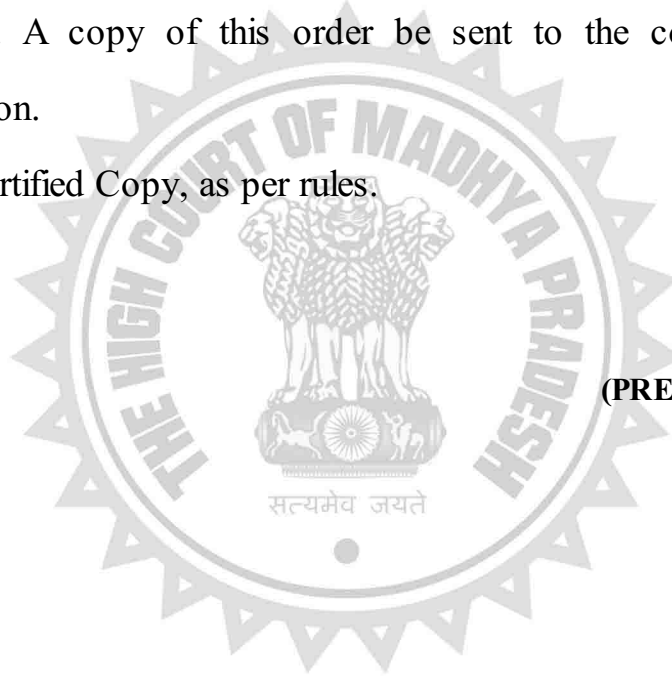
21. Before parting, this Court clarifies that any view or observation made herein would not be binding in any manner on the merits of the case for the concerned trial Court while adjudicating the matter in accordance with law.

22. Accordingly, M.Cr.Cs are hereby dismissed.

23. A copy of this order be sent to the concerned trial court for information.

Certified Copy, as per rules.

sumathi



**(PREM NARAYAN SINGH)**  
**JUDGE**