

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

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 13th OF MARCH, 2024

MISC. CRIMINAL CASE No. 18576 of 2022

BETWEEN:-

1. MAHENDRA NAGPURE S/O SHRI DULICHAND NAGPURE, AGED ABOUT 37 YEARS, OCCUPATION: PRIVATE JOB R/O VILLAGE LADSADA, RAMPAYLI, DISTRICT-BALAGHAT (MADHYA PRADESH)
2. ISHWARI BAI NAGPURE W/O SHRI DULICHAND NAGPURE, AGED ABOUT 51 YEARS, OCCUPATION: HOUSEWIFE R/O VILLAGE LADSADA, RAMPAYLI, DISTRICT - BALAGHAT (MADHYA PRADESH)
3. JITENDRA @ JEETLAL NAGPURE S/O SHRI DULICHAND NAGPURE, AGED ABOUT 34 YEARS, OCCUPATION: PRIVATE JOB R/O VILLAGE LADSADA, RAMPAYLI, DISTRICT - BALAGHAT (MADHYA PRADESH)
4. KRISHN KUMAR NAGPURE S/O SHRI DULICHAND NAGPURE, AGED ABOUT 31 YEARS, OCCUPATION: AGRICULTURIST R/O VILLAGE LADSADA, RAMPAYLI, DISTRICT - BALAGHAT (MADHYA PRADESH)
5. ROSHNI NAGPURE W/O JEETLAL NAGPURE, AGED ABOUT 34 YEARS, OCCUPATION: HOUSEWIFE R/O VILLAGE LADSADA, RAMPAYLI, DISTRICT - BALAGHAT (MADHYA PRADESH)
6. NISHA NAGPURE D/O DULICHAND NAGPURE, AGED ABOUT 26 YEARS, OCCUPATION: STUDY R/O VILLAGE LADSADA, RAMPAYLI, DISTRICT -

BALAGHAT (MADHYA PRADESH)

7. RITU LILHARE W/O PREM CHAND LILHARE, AGED ABOUT 28 YEARS, OCCUPATION: HOUSEWIFE R/O C/O KHEMCHAND LILHARE, WARD NO. 4, BODA, DISTRICT BALAGHAT (MADHYA PRADESH)

.....PETITIONERS**(BY SHRI VIKAS MISHRA - ADVOCATE)****AND**

1. STATE OF MADHYA PRADESH THROUGH POLICE STATION HATTA DISTRICT-BALAGHAT (MADHYA PRADESH)
2. SMT. MEENAKSHI NAGPURE D/O BHANU PRASAD NAGPURE, AGED ABOUT 31 YEARS, R/O VILLAGE CHIKHALA, HATTA DISTRICT BALAGHAT (MADHYA PRADESH)

.....RESPONDENTS**(SHRI DILIP PARIHAR – PANEL LAWYER FOR RESPONDENT NO.1 / STATE AND SHRI AJAY SEN – ADVOCATE FOR RESPONDENT NO.2)**

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

ORDER

1. This application under Section 482 of Cr.P.C. has been filed for quashment of FIR in Crime No.177/2021 registered at Police Station Hatta, District Balaghat, for offence under Sections 498-A, 294, 323, 506/34 of IPC and Section 3 and 4 of Dowry Prohibition Act.
2. It is submitted by counsel for the applicants that by mistake the applicants have not challenged the criminal proceeding but it is submitted that once the FIR has been challenged and if it is quashed, then consequence would be that all the criminal proceedings initiated

on the basis of the said FIR will lose its effect and accordingly, it is submitted that while considering the application filed under Section 482 of Cr.P.C., prayer for quashment of criminal proceeding may also be considered.

3. Heard on merits.
4. Prosecution story in short is that complainant / respondent no. 2 lodged an FIR on 10.12.2021 on the allegations that she got married to applicant no. 1 on 14.4.2017. She was kept properly by her husband for about one month and thereafter, her husband, her mother-in-law, her sister-in-law, her elder brother-in-law, wife of her elder brother-in-law started passing taunts that she has brought less dowry and also started harassing her physically and mentally. Her husband and her mother-in-law used to beat her and were insisting that she should bring an amount of Rs.10 lacs and continuously harassed her, as a result, she went back to her parental home and informed the incident. She thought that one day her husband would improve, therefore, she was tolerating cruelty. Thereafter, on one day her husband came to her parental home at village Chikhala and also harassed her on the question of bringing less dowry. Respondent no. 2 has two years old daughter namely Khushika Nagpure. Under hope and belief that a compromise may be arrived at, therefore, she approached One Stop Centre, Balaghat on 29.11.2021 but her husband did not come to One Stop Centre and her husband and his family members came to Chikhala in the month of July, 2021 and threatened her and her family members that since she has not brought the money, therefore, should not come to her matrimonial house at Ladsada. Her husband had also extended a threat of divorce and

accordingly, he has sent a notice for divorce from the Court. However, it was also mentioned that in case if her husband is ready to keep her properly, then she wants to spend her life with him and accordingly, it was alleged that she was turned out of her matrimonial house on account of demand of dowry.

5. On the basis of aforesaid complaint, the FIR in Crime No. 177/21 was lodged at Police Station Hatta, District Balaghat.
6. Applicant no. 1 Mahendra Nagpure is the husband whereas applicant no. 2 Smt. Ishwari Bai Nagpure is the mother-in-law of respondent no. 2. Applicant no. 3 Jitendra @ Jeetlal Nagpure and applicant no. 4 Krishn Kumar Nagpure are younger brothers-in-law (*Devar*) of respondent no.2 whereas applicant no. 5 Roshni Nagpure is the wife of applicant no. 3 Jitendra. Applicant no. 6 Nisha Nagpure is unmarried sister-in-law and applicant no. 7 Ritu Lilhare is sister-in-law of respondent no. 2. Accordingly, the allegations made against the applicants shall be considered in accordance with their relationship.
7. **Allegations against applicants no. 3 to 7.**
8. It is well established principle of law that in order to prosecute near and dear relatives of husband of the complainant, vague, general and omnibus statements are not sufficient and unless and until a specific allegation is made against near and dear relatives of husband of complainant, they may not be compelled to face ordeal of trial. Statement of respondent no. 2 recorded under Section 161 of Cr.P.C. is precisely in the line of the statement made in the FIR. Thus, it is clear that except general, vague and omnibus allegations against applicants no. 3 to 7, there are no specific allegations against them.

9. In the case of **Ravikant Dubey and Others Vs. State of M.P. and another** reported in **2014 Cr.L.R. (M.P.) 162** has held as under:

12. "Therefore, in the considered view of this Court this petition is maintainable also even when trial is at advance stage. The question is answered accordingly."

10. By relying on judgments passed by the Supreme Court in cases of **Geeta Mehrotra Vs. State of U.P. reported in (2012) 10 SCC 741**, **Preeti Gupta Vs. State of Jharkhand, reported in (2010) 7 SCC 667**, it is submitted by the Counsel for the applicants that there should be specific and clear allegations against the relatives of the husband. There is an increasing tendency in the society to over implicate the near and dear relatives of the husband so as to pressurize the husband.
11. The Supreme Court in the case of **Kans Raj v. State of Punjab**, reported in **(2000) 5 SCC 207**, has held as under:

"In the light of the evidence in the case we find substance in the submission of the learned counsel for the defence that Respondents 3 to 5 were roped in the case only on the ground of being close relations of Respondent 2, the husband of the deceased. For the fault of the husband, the in-laws or the other relations cannot, in all cases, be held to be involved in the demand of dowry. In cases where such accusations are made, the overt acts attributed to persons other than the husband are required to be proved beyond reasonable doubt. By mere conjectures and implications such relations cannot be held guilty for the offence relating to dowry deaths. A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their over enthusiasm and anxiety to seek conviction for maximum people, the parents of the

deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused as appears to have happened in the instant case."

12. The Supreme Court in the case of **Monju Roy v. State of W.B., (2015)**

13 SCC 693: has held as under:-

8. While we do not find any ground to interfere with the view taken by the courts below that the deceased was subjected to harassment on account of non-fulfilment of dowry demand, we do find merit in the submission that possibility of naming all the family members by way of exaggeration is not ruled out. In *Kans Raj* [(2000) 5 SCC 207 : 2000 SCC (Cri) 935] , this Court observed: (SCC p. 215, para 5)

“5. ... A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their overenthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused as appears to have happened in the instant case.”

The court has, thus, to be careful in summoning distant relatives without there being specific material. Only the husband, his parents or at best close family members may be expected to demand dowry or to harass the wife but not distant relations, unless there is tangible material to support allegations made against such distant relations. Mere naming of distant relations is not enough to summon them in the absence of any specific role and material to support such role.

9. In *Raja Lal Singh v. State of Jharkhand* [(2007) 15 SCC 415 : (2010) 3 SCC (Cri) 539] it was observed: (SCC p. 419, para 14)

“14. No doubt, some of the witnesses e.g. PW 5 Dashrath Singh, who is the father of the deceased Gayatri, and PW 3 Santosh Kr. Singh, brother of the deceased, have stated that the deceased Gayatri told them that dowry was demanded by not only Raja Lal Singh, but also the appellants Pradip Singh and his wife Sanjana Devi, but we are of the opinion that it is possible that the names of Pradip Singh and Sanjana Devi have been introduced only to spread the net wide as often happens in cases like under Sections 498-A and 394 IPC, as has been observed in several decisions of this Court e.g. in *Kamesh Panjiyar v. State of Bihar* [(2005) 2 SCC 388 : 2005 SCC (Cri) 511] , etc. Hence, we allow the appeal of Pradip Singh and Sanjana Devi and set aside the impugned judgments of the High Court and the trial court insofar as it relates to them and we direct that they be released forthwith unless required in connection with some other case.”

* * * * *

11. The court has to adopt a pragmatic view and when a girl dies an unnatural death, allegation of demand of dowry or harassment which follows cannot be weighed in golden scales. At the same time, omnibus allegation against all family members particularly against the brothers and sisters and other relatives do not stand on the same footing as husband and parents. In such case, apart from general allegation of demand of dowry, the court has to be satisfied that harassment was also caused by all the named members.

13. The Supreme Court in the case of **Chandralekha & Ors. v. State of Rajasthan & Anr.** reported in **2013 (1) UC 155** has held as under:-

"8. We must, at the outset, state that the High Court's view on jurisdiction meets with our approval and we

confirm the view. However, after a careful perusal of the FIR and after taking into consideration the attendant circumstances, we are of the opinion that the FIR lodged by respondent 2 insofar as it relates to appellants 1, 2 and 3 deserves to be quashed. The allegations are extremely general in nature. No specific role is attributed to each of the appellants. Respondent 2 has stated that after the marriage, she resided with her husband at Ahmedabad. It is not clear whether appellants 1, 2 and 3 were residing with them at Ahmedabad. The marriage took place on 9/7/2002 and respondent 2 left her matrimonial home on 15/2/2003 i.e. within a period of seven months. Thereafter, respondent 2 took no steps to file any complaint against the appellants. Six years after she left the house, the present FIR is lodged making extremely vague and general allegations against appellants 1, 2 and 3. It is important to remember that appellant 2 is a married sister-in-law. In our opinion, such extra ordinary delay in lodging the FIR raises grave doubt about the truthfulness of allegations made by respondent 2 against appellants 1, 2 and 3, which are, in any case, general in nature. We have no doubt that by making such reckless and vague allegations, respondent 2 has tried to rope them in this case along with her husband. We are of the confirmed opinion that continuation of the criminal proceedings against appellants 1, 2 and 3 pursuant to this FIR is an abuse of process of law. In the interest of justice, therefore, the FIR deserves to be quashed insofar as it relates to appellants 1, 2 and 3."

14. Considering the totality of the facts and circumstances of the present case, in absence of any specific allegation against the applicant no. 3 Jitendra @ Jeetlal Nagpure, applicant no. 4 Krishn Kumar Nagpure, applicant no. 5 Roshni Nagpure, applicant no. 6 Nisha Nagpure and applicant no. 7 Ritu Lilhare, this Court is of the considered opinion that their prosecution for offence under Sections 498-A, 294, 323, 506/34

of IPC and Section 3 and 4 of Dowry Prohibition Act cannot be allowed to continue.

15. Accordingly, FIR in Crime No.177/2021 registered at Police Station Hatta, District Balaghat as well as criminal proceedings arising out of the said FIR are hereby **quashed** qua applicant no. 3 Jitendra @ Jeetlal Nagpure, applicant no. 4 Krishn Kumar Nagpure, applicant no. 5 Roshni Nagpure, applicant no. 6 Nisha Nagpure and applicant no. 7 Ritu Lilhare.

16. Applicant No.2 Smt. Ishwari Bai Nagpure.

17. Applicant No.2 Smt. Ishwari Bai Nagpure is the mother-in-law of respondent no. 2. In the FIR it was specifically mentioned that on account of demand of dowry, the applicant no. 2 / mother-in-law used to beat her and mother-in-law of respondent no. 2 also used to pass taunts with regard to less dowry brought by her.

18. The Supreme Court in the case of **Taramani Parakh Vs. State of Madhya Pradesh and Others** reported in **(2015) 11 SCC 260** has held as under:-

“12. In *Kailash Chandra Agrawal v. State of U.P.* [*Kailash Chandra Agrawal v. State of U.P.*, (2014) 16 SCC 551], it was observed (SCC p. 553, paras 8-9):

“8. We have gone through the FIR and the criminal complaint. In the FIR, the appellants have not been named and in the criminal complaint they have been named without attributing any specific role to them. The relationship of the appellants with the husband of the complainant is distant. In *Kans Raj v. State of Punjab* [*Kans Raj v. State of Punjab*, (2000) 5 SCC 207 : 2000 SCC (Cri) 935 : (2000) 3 SCR 662] it was observed (SCC p. 217, para 5):

“5. ... A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their overenthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused as appears to have happened in the instant case.”

The Court has, thus, to be careful in summoning distant relatives without there being specific material. Only the husband, his parents or at best close family members may be expected to demand dowry or to harass the wife but not distant relations, unless there is tangible material to support allegations made against such distant relations. Mere naming of distant relations is not enough to summon them in the absence of any specific role and material to support such role.

9. The parameters for quashing proceedings in a criminal complaint are well known. If there are triable issues, the Court is not expected to go into the veracity of the rival versions but where on the face of it, the criminal proceedings are abuse of Court's process, quashing jurisdiction can be exercised. Reference may be made to *K.Ramakrishna v. State of Bihar* [*K. Ramakrishna v. State of Bihar*, (2000) 8 SCC 547 : 2001 SCC (Cri) 27] , *Pepsi Foods Ltd. v. Judicial Magistrate* [*Pepsi Foods Ltd. v. Judicial Magistrate*, (1998) 5 SCC 749 : 1998 SCC (Cri) 1400] , *State of Haryana v. Bhajan Lal* [*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426 : AIR 1992 SC 604] and *Asmathunnisa v. State of A.P.* [*Asmathunnisa v. State of A.P.*, (2011) 11 SCC 259 : (2011) 3 SCC (Cri) 159] ”

13. In the present case, the complaint is as follows:

“Sir, it is submitted that I was married on 18-11-2009 with Sidharath Parakh s/o Manak Chand Parakh r/o Sarafa

Bazar in front of Radha Krishna Market, Gwalior according to the Hindu rites and customs. In the marriage my father had given gold and silver ornaments, cash amount and household goods according to his capacity. After the marriage when I went to my matrimonial home, I was treated nicely by the members of the family. When on the second occasion I went to my matrimonial home, my husband, father-in-law and mother-in-law started harassing me for not bringing the dowry and started saying that I should bring from my father 25-30 tolas of gold and Rs 2,00,000 in cash and only then they would keep me in the house otherwise not. On account of this my husband also used to beat me and my father-in-law and my mother-in-law used to torture me by giving the taunts. In this connection I used to tell my father Kundanmal Oswal, my mother Smt Prem Lata Oswal, uncle Ashok Rai Sharma and uncle Ved Prakash Mishra from time to time. On 2-4-2010 the members of the family of my matrimonial home forcibly sent me to the house of my parents in Ganj Basoda along with my brother Deepak. They snatched my clothes and ornaments and kept with them. Since then till today my husband has been harassing me on the telephone and has not come to take me back. Being compelled, I have been moving this application before you. Sir, it is prayed that action be taken against husband Sidharath Parakh, my father-in-law Manak Chand Parakh and my mother-in-law Smt Indira Parakh for torturing me on account of demanding dowry.

14. From a reading of the complaint, it cannot be held that even if the allegations are taken as proved no case is made out. There are allegations against Respondent 2 and his parents for harassing the complainant which forced her to leave the matrimonial home. Even now she continues to be separated from the matrimonial home as she apprehends lack of security and safety and proper environment in the matrimonial home. The question whether the appellant has in fact been harassed and treated with cruelty is a matter of trial but at this stage, it cannot be said that no case is made

out. Thus, quashing of proceedings before the trial is not permissible.

19. If the allegations made against applicant no. 2 Smt. Iswari Bai Nagpure are considered, then it is clear that the allegations made against her is sufficient for prosecution for offence under Sections 498-A, 294, 323, 506/34 of IPC and Section 3 and 4 of Dowry Prohibition Act.
20. At this stage, it is submitted by counsel for the applicants that once applicant no. 1 had filed an application under Section 13 of the Hindu Marriage Act for grant of divorce and after receipt of that notice, FIR in question has been lodged, therefore, it is clear that FIR has been lodged by way of counter blast and accordingly, in the light of the judgment passed by a Coordinate Bench of this Court in the case of **Amit Kumar Shrivastava and others vs. State of Madhya Pradesh and another**, decided on **25.1.2019** passed in **M.Cr.C.No.10842/2014**, the FIR is liable to be quashed.
21. Considered the submissions made by counsel for the applicants.
22. The Supreme Court in the case of **Pratibha v. Rameshwari Devi**, reported in **(2007) 12 SCC 369** has held as under:-

“**14.** From a plain reading of the findings arrived at by the High Court while quashing the FIR, it is apparent that the High Court had relied on extraneous considerations and acted beyond the allegations made in the FIR for quashing the same in exercise of its inherent powers under Section 482 of the Code. We have already noted the illustrations enumerated in *Bhajan Lal case* [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] and from a careful reading of these illustrations, we are of the view that the

allegations emerging from the FIR are not covered by any of the illustrations as noted hereinabove. For example, we may take up one of the findings of the High Court as noted hereinabove. The High Court has drawn an adverse inference on account of the FIR being lodged on 31-12-2001 while the appellant was forced out of the matrimonial home on 25-5-2001.

15. In our view, in the facts and circumstances of the case, the High Court was not justified in drawing an adverse inference against the appellant wife for lodging the FIR on 31-12-2001 on the ground that she had left the matrimonial home at least six months before that. This is because, in our view, the High Court had failed to appreciate that the appellant and her family members were, during this period, making all possible efforts to enter into a settlement so that Respondent 2 husband would take her back to the matrimonial home. If any complaint was made during this period, there was every possibility of not entering into any settlement with Respondent 2 husband.

16. It is pertinent to note that the complaint was filed only when all efforts to return to the matrimonial home had failed and Respondent 2 husband had filed a divorce petition under Section 13 of the Hindu Marriage Act, 1955. That apart, in our view, filing of a divorce petition in a civil court cannot be a ground to quash criminal proceedings under Section 482 of the Code as it is well settled that criminal and civil proceedings are separate and independent and the pendency of a civil proceeding cannot bring to an end a criminal proceeding even if they arise out of the same set of facts. Such being the position, we are, therefore, of the view that the High Court while exercising its

powers under Section 482 of the Code has gone beyond the allegations made in the FIR and has acted in excess of its jurisdiction and, therefore, the High Court was not justified in quashing the FIR by going beyond the allegations made in the FIR or by relying on extraneous considerations.

22. For the reasons aforesaid, we are inclined to interfere with the order of the High Court and hold that the High Court in quashing the FIR in the exercise of its inherent powers under Section 482 of the Code by relying on the investigation report and the findings made therein has acted beyond its jurisdiction. For the purpose of finding out the commission of a cognizable offence, the High Court was only required to look into the allegations made in the complaint or the FIR and to conclude whether a prima facie offence had been made out by the complainant in the FIR or the complaint or not.”

23. Thus, it is clear that merely because the FIR was lodged after the petition for divorce was instituted, the same cannot be a ground to quash the proceedings. The judgment passed by the Supreme Court in the case of **Pratibha (supra)** was taken note of by Coordinate Bench of this Court in the case of **Amit Kumar Shrivastava (supra)**. However, in paragraph 10 of the aforesaid judgment, Coordinate Bench had also taken note of the various admissions made by the victim and her father before the Family Court which according to the Coordinate Bench had completely demolished the case of the victim and the said admissions unmistakably indicates that there was no mental or physical cruelty inflicted upon her for demand of dowry and otherwise. Therefore, it is clear that unless and until surrounding

circumstances indicate that the allegations made against the applicants are false and in fact, there was no mental or physical harassment / cruelty, this Court cannot quash the proceedings merely on the ground that FIR was lodged by way of counter blast. Furthermore, it is well established principle of law that this Court at the stage of proceeding under Section 482 of Cr.P.C. has to consider uncontroverted allegations only and cannot embark upon an enquiry or cannot dwell upon the defense taken by the accused persons.

24. It is next contended by counsel for the applicants that FIR was lodged belatedly and the same is barred by time and for the said purposes, he has relied upon the judgment passed by the Supreme Court in the case of **Kamlesh Kalra vs. Shilpika Kalra and others**, decided on **24.4.2020** in **Criminal appeal no. 416/2020**, in which, the proceedings were quashed on the ground that the FIR was time barred as it was lodged much more than three years after the separation of husband and wife.
25. If the facts of the present case are considered, then it is clear that respondent no. 2 has specifically alleged that she has been turned out of her matrimonial house on account of less dowry.
26. Now the question for consideration is as to whether compelling a married woman to live in her parental home on account of less dowry would amount to cruelty or not and whether it can be said to be continuous cause of action or not?.
27. The Supreme Court in the case of **Rupali Devi v. State of U.P.**, reported in **(2019) 5 SCC 384** has held as under:-

“14. “Cruelty” which is the crux of the offence under Section 498-A IPC is defined in *Black's Law Dictionary* to mean “the intentional and malicious infliction of mental or physical suffering on a living creature, esp. a human; abusive treatment; outrage (abuse, inhuman treatment, indignity)”. Cruelty can be both physical or mental cruelty. The impact on the mental health of the wife by overt acts on the part of the husband or his relatives; the mental stress and trauma of being driven away from the matrimonial home and her helplessness to go back to the same home for fear of being ill-treated are aspects that cannot be ignored while understanding the meaning of the expression “cruelty” appearing in Section 498-A of the Penal Code. The emotional distress or psychological effect on the wife, if not the physical injury, is bound to continue to traumatise the wife even after she leaves the matrimonial home and takes shelter at the parental home. Even if the acts of physical cruelty committed in the matrimonial house may have ceased and such acts do not occur at the parental home, there can be no doubt that the mental trauma and the psychological distress caused by the acts of the husband including verbal exchanges, if any, that had compelled the wife to leave the matrimonial home and take shelter with her parents would continue to persist at the parental home. Mental cruelty borne out of physical cruelty or abusive and humiliating verbal exchanges would continue in the parental home even though there may not be any overt act of physical cruelty at such place.”

28. This Court in the case of **Amar Singh vs. Smt. Vimla** decided on 22.06.2021 in **Criminal Revision No.2376/2020 (Gwalior Bench)** has held that compelling a married woman to live in her parental home amounts to cruelty.

29. Therefore, compelling a married woman to leave her matrimonial house and to live in her parental home on account of less dowry would certainly traumatize the woman.
30. It is true that there may not be any physical cruelty after the separation but under section 498-A of IPC, cruelty may be of mental or physical. If a lady has been ousted from her matrimonial house, then certainly it will have impact on her mind amounting to mental cruelty. Once staying at her parental home on account of ousting from her matrimonial house on account of less dowry is held to be a cruelty, then it would become a continuous offence and every day would give a fresh cause of action.
31. Accordingly, this Court is of the considered opinion that FIR cannot be quashed on the ground that it is barred by limitation.
32. Furthermore, it is submitted by counsel for the applicants that since the FIR was lodged belatedly, therefore, the same is bad in law.
33. Considered the submissions made by counsel for the applicants.
34. The Supreme Court in the case of **Ravinder Kumar and another v. State of Punjab, reported in (2001) 7 SCC 690** has held that attack on prosecution cases on the ground of delay in lodging FIR has almost bogged down as a stereotyped redundancy in criminal cases. It is a recurring feature in most of the criminal cases that there would be some delay in furnishing the first information to the police. It has to be remembered that law has not fixed any time for lodging the FIR. Hence a delayed FIR is not illegal. Of course, a prompt and immediate lodging of FIR is ideal as that would give the prosecution a twin

advantage i.e. firstly it affords commencement of the investigation without any time lapse and secondly that it expels the opportunity for any possible concoction of a false version. Even otherwise promptly lodged FIR is also not an unreserved guarantee for the genuineness of the version incorporated therein. There may be variety of genuine causes for FIR lodgement to get delayed.

35. The Supreme Court in the case of **Mohammad Wajid and another vs. State of U.P. and others, reported in AIR 2023 SC 3784** has held that delay in registration of FIR, by itself cannot be a ground for quashing of FIR. Thus, it is clear that merely because according to applicants there is delay in lodging the FIR, by itself is not sufficient to quash the same.
36. A delay in FIR by itself will not be a ground to quash the proceedings. It is well established principle of law that a delay by itself is not sufficient to throw the prosecution case. The delay will assume importance only when the complainant fails to give a plausible explanation and whether there was any plausible explanation or not, can be decided by the Trial Court only after recording the evidence.
37. Under these circumstances, this Court is of the considered opinion that so far as the FIR lodged against applicant no. 2 Smt. Ishwari Bai Nagpure is concerned, the same cannot be quashed.
38. **Applicant no. 1 Mahendra Nagpure.**
39. Applicant no.1 Mahendra Nagpure is the husband. There are specific allegations that he was harassing her physically and mentally on account of demand of Rs.10 lacs. He was also in the habit of assaulting

respondent no. 2. It is also alleged that respondent no. 2 has been turned out of her matrimonial house by applicant no.1.

40. Under these circumstances, this Court is of the considered opinion that there is sufficient material available against applicant no.1 warranting prosecution for the offences mentioned above.
41. *Ex consequenti*, application filed by applicant no. 3 Jitendra @ Jeetla Nagpure, applicant no. 4 Krishn Kumar Nagpure, applicant no. 5 Roshni Nagpure, applicant no. 6 Nisha Nagpure and applicant no. 7 Ritu Lilhare, is hereby **allowed** and the FIR in Crime No.177/2021 registered at Police Station Hatta, District Balaghat, for offence under Sections 498-A, 294, 323, 506/34 of IPC and Section 3 and 4 of Dowry Prohibition Act as well as criminal proceedings against the aforesaid five persons are hereby **quashed**.
42. So far as the application filed by applicant no.1 Mahendra Nagpure and applicant no. 2 Smt. Ishwari Bai Nagpure is concerned, the same is **dismissed** and their prosecution for offence under Sections 498-A, 294, 323, 506/34 of IPC and Section 3 and 4 of Dowry Prohibition Act, shall continue.
43. The application is, accordingly, **disposed of**.

(G.S. AHLUWALIA)
JUDGE

JP