

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

BEFORE

HON'BLE SHRI JUSTICE DINESH KUMAR PALIWAL

M.Cr.C.No.20304 OF 2022

BETWEEN:-

1. SUKHENDRA CHATURVEDI, AGED
ABOUT 33 YEARS, S/O SHRI
RAMBAHORE CHATURVEDI,
OCCUPATION: ADVOCATE, R/O
AMARPATAN, DISTRICT SATNA
(MADHYA PRADESH)

2. RAMBAHORE CHATURVEDI, AGED
ABOUT 63 YEARS S/O LATE
SURYAVANSHRAM CHATURVEDI,
OCCUPATION: AGRICULTURIST, R/O
AMARPATAN DISTRICT SATNA (MADHYA
PRADESH)

3. AHILYA BAI CHATURVEDI, AGED
ABOUT 60 YEARS, W/O SHRI
RAMBAHORE CHATURVEDI,
OCCUPATION: HOUSEWIFE, R/O
AMARPATAN DISTRICT SATNA (MADHYA
PRADESH)

.....APPLICANTS

(BY SHRI ROHINI PRASAD TIWARI – ADVOCATE)

AND

**1. THE STATE OF MADHYA PRADESH
THROUGH POLICE STATION
AMARPATAN, DISTRICT SATNA
(MADHYA PRADESH)**

**2. SMT. SNEHA CHATURVEDI W/O
SHRI SUKHENDRA CHATURVEDI, AGED
ABOUT 26 YEARS, R/O VILLAGE
GUDAHAL P.S CHORHATA TAHSIL
HUZUR DISTRICT REWA (MADHYA
PRADESH)**

...RESPONDENTS

(BY SHRI AJAY TAMRAKAR – PANEL LAWYER)

.....
Reserved on : 20.06.2023

Pronounced on : 04.07.2023
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This petition having been heard and reserved for orders, coming on for pronouncement this day, the Court pronounced the following:

ORDER

This petition under Section 482 of Cr.P.C has been filed assailing the order dated 08.09.2020, passed in Criminal Revision No.53/2019 (Sukhendra Chaturvedi and Others Vs. State of M.P.) through P.S. Patan, District Satna whereby applicant's revision application preferred against the order dated 10.12.2019 framing charge, passed in Criminal Trial

No.533/2017 (State of M.P. Vs. Sukhendra Chaturvedi and Others) under Section 498-A of IPC and Section 3/4 of the Dowry Prohibition Act has been dismissed.

2. As per material available on record, the marriage of petitioner No.1 was solemnized with the complainant Sneha on 21.04.2014. The petitioners allegedly harassed the complainant for demand of dowry right from the second day of marriage. On 05.09.2015 due to this wedlock a child was born to the complainant Sneha. It is averred that the complainant was being harassed for demand of dowry by the petitioner's father-in-law, mother-in-law and husband. It is further averred that because of continuous harassment and demand of dowry, the complainant had to leave the matrimonial house. She lodged the FIR alleging harassment and cruelty in connection with demand of dowry. After investigation charge sheet was filed.

3. Learned trial Court after hearing the parties framed charges against the petitioners for commission of offence under Section 498-A of IPC and Section 3/4 of the Dowry Prohibition Act, 1961 vide order dated 10.12.2019, passed by the learned JMFC. The aforesaid order was challenged by filing the revision application before the Sessions Judge and same was dismissed by the impugned order by the IInd ASJ, Amarpatan, District Satna.

4. Learned counsel for the petitioners have submitted that petitioners have not committed any offence. They have been falsely implicated. Complainant – wife of petitioner No.1 is residing separately since

23.12.2014. FIR was lodged on 15.07.2017 i.e. almost 2.5 years from the date of leaving matrimonial home by the complainant. Therefore, no question of demand of dowry arises. Bald and omnibus allegations have been made against the petitioners. It is further submitted that petitioner No.1 had filed an application under Section 13 of the Hindu Marriage Act, 1955 on 19.12.2016 for dissolution of marriage before the family Court and thereafter as a counter blast FIR has been lodged on 15.07.2017. Thus, it is apparent that allegations of demand of dowry are nothing but an after thought. Therefore, learned trial Court was not justified in framing of charges and learned ASJ has not properly considered illegality, incorrectness and impropriety in the order of framing of charges and has dismissed the revision application without assigning appropriate reasons. Therefore, it has been prayed that orders of framing charges passed by the learned JMFC and revisional court order affirming order of framing of charges be set aside.

5. Learned counsel for the petitioners has placed the reliance on this Court *order dated 13.06.2023*, passed in *M.Cr.C.No.11514/2017 (Shri Bhupendra Singh Notey and Others Vs. State of M.P. and Another)* and *order dated 18.08.2021*, passed in *Cr.R.No.521/2021 (Abhishek Pandey @ Ramji Pandey and Others Vs. State of Madhya Pradesh and Others)*.

6. On the other hand, learned counsel for the State has opposed the submissions made by learned counsel for the petitioners and has contented that at the stage of framing of charges only a *prima-facie* case has to be seen. At the stage of framing of charge, Courts are not required

to appreciate and evaluate the evidence, mere a strong suspicion is sufficient for framing of charge.

7. Heard learned counsel for the parties and perused the material available on record.

8. This Court is conscious of the various decisions laid down by the Hon'ble Apex Court on the point. In the case of *Union of India Vs. Prafulla Kumar Samal and Another*, reported in (1979) SCC (Cri) 609 Hon'ble Supreme Court held as under:

"The scope of section 227 of the Code was considered by a recent decision of this Court in the case of [State of Bihar v. Ramesh Singh](#) : 1977 CriLJ 1606 where Untwalia, J. speaking for the Court observed as follows:- "

"Strong suspicion against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage if there is a strong suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused. The presumption of the guilt of the accused which is to be drawn at the initial stage is not in the sense of the law governing the trial of criminal cases in France where the accused is presumed to be guilty unless the contrary is proved. But it is only for the purpose of deciding prima facie whether the Court should proceed with the trial or not. If the evidence which the Prosecutor pro poses to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebut ted by the defence evidence; if any, cannot show that the accused committed the offence then there will be no sufficient ground for proceeding with the trial

9. In the case of [K.P. Raghavan and Anr. vs. M.H. Abbas and Anr.](#) : 1976 CriLJ653 this Court observed as follows:-

"No doubt a Magistrate enquiring into a case under Section 209, Cr.P.C. is not to act as a mere Post office and has to come to a conclusion whether the case before him is fit for 8 commitment of the accused to the Court of Session"

9. Hon'ble Apex Court in the case of *Amit Kapoor v Ramesh Chander*, reported in (2012) 9 SCC 460 held as under:

"12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits

13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in exercise of its revisional jurisdiction unless the case substantially falls within the categories aforesaid. Even framing of charge is a much advanced stage in the proceedings under the CrPC."

10. In State of *Rajasthan Vs. Fatehkaran Mehdu*, reported in (2017) 3 SCC 1998 Hon'ble Apex Court has held as under:

“26. The scope of interference and exercise of jurisdiction under Section 397 CrPC has been time and again explained by this Court. Further, the scope of interference under Section 397 CrPC at a stage, when charge had been framed, is also well settled. At the stage of framing of a charge, the court is concerned not with the proof of the allegation rather it has to focus on the material and form an opinion whether there is strong suspicion that the accused has committed an offence, which if put to trial, could prove his guilt. The framing of charge is not a stage, at which stage final test of guilt is to be applied. Thus, to hold that at the stage of framing the charge, the court should form an opinion that the accused is certainly guilty of committing an offence, is to hold something which is neither permissible nor is in consonance with the scheme of the Code of Criminal Procedure.”

11. In case of *Soma Chakarvarti Vs. State*, reported in (2007) 5 SCC 403, Hon'ble Apex Court has held that at the time of framing of charges, the probative value of material on record cannot be gone into; and the material brought on record by the prosecution has to be accepted as true. Before framing a charge, the Court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible. Whether the accused committed the offence or not, can only be decided in the trial. The charge may although be directed to frame when there exists the strong suspicion but it is also trite that the Court must come to a *prima facie* finding that there exists some material therefore.

12. Further, this Court in the case of *Colgate Palmolive India Ltd. vs. Satish Rohra*, [2005(4) MPLJ 380], has held in the following manner:-

"6. I have heard the learned Counsel of both the parties and carefully perused the evidence and the material on record. Before considering the evidence and the material on record for the limited purpose of finding out whether a prima facie case for issuance of process has been made out or not, it may be mentioned at the very outset that the various documents and the reports filed by the petitioners/Company along with the petition can not be looked into at the stage of taking cognizance or at the stage of framing of the charge. The question whether prima facie case is made out or not has to be decided purely from the point of view of the complainant without at all advertent to any defence that the accused may have. No provision in the Code of Criminal Procedure grants to the accused any right to file any material or document at the stage of taking cognizance or even at the stage of framing of the charge in order to thwart it. That right is granted only at the stage of trial. At this preliminary stage the material produced by the complainant alone is to be considered."

13. Now, I shall examine whether learned Additional Session Court has correctly exercised its revisional jurisdiction under Section 397 read with Section 401 of Cr.P.C in not interfering with the illegality, incorrectness and impropriety with the order. On a perusal of the complaint filed in writing on 16.05.2017 by Sneha Chaturvedi wife of petitioner No.1, it is apparent that she has made specific allegations about demand of dowry and causing physical and mental cruelty with her in connection with demand of dowry. In the course of investigation, Police recorded statement of witnesses and have filed the charge sheet. Complainant Sneha's evidence has already been recorded before the trial Court. At this stage, there is nothing on record to infer that there is no *prima-facie* case against the petitioners. From the aforementioned decisions by the Hon'ble Apex Court, it is settled position of law that at the stage of framing of charge, the scope of interference by the revisional court is very limited, so

much so that Court must be concerned only with the question whether there is any suspicion with the accused, and not with the proof of allegations.

14. As far the judgement relied on by learned counsel for the petitioners are concerned, FIR lodged in ***Bhupendra Singh Notey (supra)*** was quashed even after filing of the charge sheet as in that case incident had taken place long back in 2008 at Ghaziabad and after filing of divorce petition by the petitioner in 2016, FIR was got registered in January 2017. Facts of this case are not identical with the case of ***Bhupendra Singh Notey (supra)***. Same is the position in ***Abhishek Pandey's @ Ramji Pandey and Others (supra)***. Thus, applicant gets no benefit from the aforesaid case laws. On a perusal of the impugned order as well as documents available on record, this Court is of the firm opinion that if strong suspicion exists in the mind of the Courts below at the stage concerned, then same is sufficient for the Court to proceed with the framing of charges against the accused persons and if a prayer for discharge is made before the revisional court, then same may only be allowed if the Court finds materials on record are solely insufficient for the purpose of trial.

15. In view of the aforesaid discussion as well as material available on record and law laid down by the Hon'ble Apex Court in the aforementioned cases, this Court does not find any illegality or infirmity in the impugned order passed by the revisional Court so as to warrant any interference, at this stage. Thus, this revision filed by the petitioner fails.

16. Consequently, the present petition is dismissed and all pending applications stands **disposed of**.

(DINESH KUMAR PALIWAL)
JUDGE

Jasleen