

1
**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE VINAY SARAF**

ON THE 5th OF APRIL, 2024

MISC. CRIMINAL CASE No. 59499 of 2022

BETWEEN:-

1. SMT. VARSHA SINGH W/O SHRI KRISHNA SHARAN SINGH, AGED ABOUT 30 YEARS, OCCUPATION: HOUSEWIFE VILLAGE UMARI POLICE STATION JASO TAHSIL NAGOD DISTRICT SATNA (MADHYA PRADESH)

2. KRISHNA SHARAN SINGH S/O SHRI RAM JIYAVAN SINGH, AGED ABOUT 32 YEARS, OCCUPATION: AGRICULTURIST RESIDENT VILLAGE UMARI POLICE STATION JASO TAHSIL NAGOD DISTRICT SATNA (MADHYA PRADESH)

.....APPLICANT

(BY SHRI K.D. SINGH-ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH THROUGH POLICE STATION MAHILA THANA REWA DISTRICT REWA (MADHYA PRADESH)

2. SMT. ANJALI SINGH W/O SHRI SANDEEP SINGH CHOUHAN, AGED ABOUT 22 YEARS, OCCUPATION: HOUSE WIFE RESIDENT VLLAGE UMARI MADHAV POLICE STATION MAUGANJ AT PRESENT R/O PATHKAN TOLA SAMAN WARD NO. 15 POLICE STATION SAMAN DISTRICT REWA (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI JITENDRA SHRIVASTAVA- PANEL LAWYER &
SHRI S.M. SHUKLA- ADVOCATE FOR RESPONDENT NO.2)

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

ORDER

The petitioners before this Court prayed for quashment of FIR and consequential proceedings pending in the court of Judicial Magistrate First Class, Rewa upon the FIR lodged by respondent no.2, Anjali Singh under Section 498-A, 506/34 of IPC and 3/4 of Dowry Prohibition Act against the petitioner and two others.

2. Respondent no.2/complainant Anjali Singh was married to co-accused Sandeep Singh Chouhan on 1.12.2020. Petitioner No.1, Varsh Singh is sister-in-law and petitioner no.2, Krishna Sharan Singh is the brother-in-law (husband of sister-in-law) of complainant. It appears that unfortunately the marriage could not survive for a longer period and on 1.10.2022, complainant lodged FIR which was registered as Crime No.170/2022 at Police Station Mahila Thana, Rewa against her husband, father-in-law and the petitioners upon the allegation that after marriage all the accused persons raised demand of dowry and demanded cash of Rs.1,50,000/-, four wheeler, gold and later on harassed the complainant as their demand was not fulfilled. It is alleged in the FIR that petitioners whenever visited to residence of complainant asked complainant to bring dowry from her father. It is also alleged in the FIR that when complainant failed to fulfill their demand, her husband and father-in-law had threatened complainant. Thereafter, father of complainant visited at the residence of complainant's matrimonial house and tried for settling the issues but accused persons were not ready to realise and the complainant was compelled to left her matrimonial house and since then she is living with her parents.

3. Learned counsel for the petitioners submits that there are omnibus allegations against the petitioners and no specific act of the petitioners is alleged in the FIR. Petitioners are living separately in District Satna, M.P. whereas the complainant was staying at village Prayagraj, UP with her husband and father-in-

law and therefore there was no occasion to make demand of dowry or harass the complainant. It is argued that petitioners have been implicated in the present case only being the close relative of husband of complainant and there is no evidence against the petitioners except the bald allegations. Police has filed charge-sheet after completing the investigation and matter is pending before the Judicial Magistrate First Class, Rewa as RCT No.2263/2023.

4. Learned counsel for the petitioners further submits that petitioners have not committed any offence as alleged in the FIR and the charge-sheet has been filed against them without considering the fact that petitioner no.1 is marriage sister-in-law and living at a distance place with her husband, petitioner no.2.

5. Learned counsel for the petitioners placed reliance on the judgment of Apex Court delivered in the matter of ***Kahkashan Kausar @ Sonam Vs. The State of Bihar (2022) 6 SCC 599*** wherein the Apex Court has quashed the FIR registered against the sister-in-law, brother-in-law, mother-in-law and niece. He prayed for quashment of FIR and criminal proceedings *qua* petitioners.

6. Learned Panel Lawyer on behalf of the State opposed the prayer on the ground that complainant has named petitioners in FIR and her statements recorded under Section 161 of the Cr.P.C., wherein specific allegations were levelled against the petitioners that they were also demanding dowry from the complainant. However upon asking, learned P.L. fairly admitted that petitioners were not residing with complainant in her matrimonial house. He prays for dismissal of the petition.

7. Learned counsel appearing on behalf of the respondent

no.2/complainant submits that due to active interference of petitioner no.1 in the family of complainant, incident took place and complainant has alleged in the FIR that petitioners also demanded dowry and harassed her therefore, no case for quashment of FIR and criminal proceedings is made out. He further submits that in the criminal proceedings, the charges might have been framed and therefore, FIR and criminal proceedings cannot be quashed. He prays for dismissal of the petition.

8. The allegation in the FIR against the petitioners was of making demand for four wheeler, cash and gold and it is alleged that all the accused persons named in the FIR demanded these articles from the complainant, however, the allegation of harassment and threatening to complainant are not against the petitioners. It appears that the alleged incident had taken place at Prayagraj, U.P. however, the petitioners are resident of village Umari, District-Satna M.P. and therefore, there was no occasion for the petitioners to harass the complainant by demand of dowry and there is no specific allegation against both the petitioners in the FIR. The allegations are bald in nature and omnibus.

9. Similarly in the statements recorded under Section 161 of the Cr.P.C., the complainant made bald and omnibus allegations against the petitioners and from perusal of charge-sheet it appears that no credible evidence was collected by investigating officer to prosecute the petitioners for the aforesaid offences. In the absence of any material, no one can be prosecuted. The statements of the prosecution witnesses were also examined and none of the prosecution witnesses had stated anything specific against the petitioners. Matrimonial dispute between husband and wife is an internal affair of the spouse and there was no question for any interference by the petitioners as they were not living with the complainant. The bald allegations are without any basis and

foundation and if all the allegations levelled in the FIR are taken to be proved even then no offence is made out against the petitioners.

10. In the similar circumstances, the Apex Court in the case of *Preeti Gupta & Anr. Vs. State of Jharkhand & Anr. (2010) 7 SCC 667* has criticized the tendency of implicating all the close relatives of the husband in the criminal case and quashed the prosecution against married sister-in-law of the complainant. The relevant paragraphs of the judgement reads as under :

"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 complainant 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."

11. The Apex Court in the case *Geeta Mehrotra & Anr. Vs. State of UP & Anr.* 2012 10 SCC 741 has quashed the FIR lodged against the sister-in-law, brother-in-law and other close relatives of the husband. The relevant paragraphs of the judgment are reproduced below:

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* [(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: (SCC p. 698, para 12)

"12. There has been an outburst of matrimonial disputes 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 that matter was that the courts would not encourage such disputes.

27. The High Court in our considered opinion appears to have missed that assuming the trial court had territorial jurisdiction, it was still left to be decided whether it was a fit case to send the appellants for trial when the FIR failed to make out a prima facie case against them regarding the allegation of inflicting physical and mental torture to the complainant demanding dowry from the complainant. Since the High Court has failed to consider all these aspects, this Court as already stated hereinbefore, could have remitted the matter to the High Court to consider whether a case was made out against the appellants to proceed against them. But as the contents of the FIR do not disclose specific allegation against the brother and sister of the complainant's husband except casual reference of their names, it would not be just to direct them to go through protracted procedure by remanding for consideration of the matter all over again by the High Court and make the unmarried sister of the main accused and his elder brother to suffer the ordeal of a criminal case pending against them specially when the FIR does not disclose

ingredients of offence under Sections 498-A/323/504/506 IPC and Sections 3/4 of the Dowry Prohibition Act.

28. We, therefore, deem it just and legally appropriate to quash the proceedings initiated against the appellants Geeta Mehrotra and Ramji Mehrotra as the FIR does not disclose any material which could be held to be constituting any offence against these two appellants. Merely by making a general allegation that they were also involved in physical and mental torture of Respondent 2 complainant without mentioning even a single incident against them as also the fact as to how they could be motivated to demand dowry when they are only related as brother and sister of the complainant's husband, we are pleased to quash and set aside the criminal proceedings insofar as these appellants are concerned and consequently the order passed by the High Court shall stand overruled. The appeal is accordingly allowed."

12. The Apex Court in the matter of *Kahkashan Kausar (supra)* after relying upon the judgment passed in the case of *Preeti Gupta (supra)* has held as under:

"17. The above mentioned 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.

18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that "all accused harassed her mentally and threatened her of terminating her pregnancy". Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution."

13. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the petitioners it would be unjust if the petitioners are forced to go through the tribulations of trial on the basis on

general and omnibus allegations. The petitioners cannot manifest in a situation where the relatives of the complainant husband are forced to undergo trial and in view of the above facts and circumstances, the FIR registered vide Crime No.170/2022 by Police Station Mahila Thana, Rewa and the criminal proceedings pending before the Judicial Magistrate First Class, Rewa as RCT No.2263/2022 qua petitioners, Smt. Varsha Singh and Krishna Sharan Singh are hereby quashed.

14. Accordingly, the petition is allowed. There shall be no order as to costs. Copy of this order be sent to the trial court.

P/-



(VINAY SARAF)
JUDGE