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MCRC-11797-2023

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE MANINDER S. BHATTI

ON THE 17th OF OCTOBER, 2024MISC. CRIMINAL CASE No. 11797 of 2023*AMIT PANDEY AND OTHERS**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

.....
Appearance:

*Shri Surya Prakash Pathak - Advocate for petitioners.**Smt. Shanti Tiwari - Panel Lawyer for the State.**Shri Vipin Mishra - Advocate for respondent No.2.*
.....

ORDER

The present petition has been filed by the petitioners under Section 482 of the CrPC for quashment of the....FIR...

2. The counsel for the petitioners contends that the petitioner No.1 is the husband of the complainant; petitioner No.2 is the father of the petitioner No.1 and the petitioner No.3 is the sister of the petitioner No.1. Petitioners No.1 and 2 are residing separately in their own house and the complainant is residing in a different accommodation in a different city. The marriage of the petitioner No.1 with the respondent No.2/complainant was solemnized on 18-12-2018, however, attitude of the respondent No.2 after the marriage was indifferent and she used to go outside the home without even informing the petitioners. Ultimately, the petitioner No.1 while making allegations of cruelty filed a petition under Section 13 of the Hindu Marriage Act on 12-04-2022 before the Family Court, Chhindwara. Prior to that ...Notice to the said



application was received by the respondent No.2/complainant on 19-01-2023 which is evident from the order dated 19-01-2023 (page No.32 of the petition).

3. The respondent No.2 as a counterblast to the proceedings instituted under Section 13 of the Hindu Marriage Act lodged an FIR on 04-02-2023 against the petitioners. In the FIR general and omnibus allegations were levelled against the petitioners, even the petitioner No.3 is not residing in the common household..... was also instituted... on the basis of baseless and misconceived allegations. It is contended by the counsel for the petitioners that lodging of the FIR is merely an afterthought and the same has been lodged as a counterblast to the filing of the petition by the petitioner No.1 under Section 13 of the Hindu Marriage Act. The learned counsel for the petitioners has placed reliance on the decision in Cr.R.No.521/2021 (Abhishek Pandey vs. State of M.P.) and the decision of the Apex Court in the case of Mithila.... vs State of U.P., submits that the entire proceedings so instituted on the basis of the FIR be quashed.

4. Per contra, counsel for the respondent No.2/complainant has opposed the prayer and submitted that in the present case the respondent No.2/complainant was subjected to cruelty, the complainant lodged an FIR and in the FIR specific allegations were levelled against the petitioners. It was specifically alleged in the FIR that the petitioner No.3/husband used to instigate the petitioner No.1 and there was demand by the present petitioner of Rs.5 lacs as well as a car. The petitioner No.3 used to through the food which was prepared by the complainant and she had also coerced the



petitioner No.1 not to talk with the complainant. The petitioner No.3 used to fight in the presence of the petitioner No.1 only and the petitioner No.3 used to instigate the petitioners No.1 and 2 to illtreat and torture the complainant. It is further contended by the counsel for the respondent No.2 that there are specific allegations in the FIR and no interference at this stage is warranted. It is further contended that merely filing of a petition under Section 13 of the Hindu Marriage Act is not a ground to quash the proceedings instituted subsequently under Section 498-A of the IPC.

5. No other point is pressed or argued by the counsel for the parties.

6. Heard the submissions and perused the records.

7. In the present case, it is undisputed that the petitioner No.1 filed a petition under Section 13 of the Hindu Marriage Act on 12-04-2022 and notice of the same was received by the respondent No.2 prior to 19-01-2023. The FIR is dated 04-02-2023 and a perusal of the same reflects that in the FIR there are allegations of demand of dowry. There are allegations of ill-treatment at the behest of the petitioner No.1 as well as petitioner No.3. There are specific allegations against the petitioner No.3 as regards torture and cruelty. The concluding part of the FIR also reveals that on 13-02-2021 the respondent No.2/complainant was thrown out of the matrimonial house and thereafter, she came to Bhopal and started residing with her brother. It is further mentioned in the FIR that when the respondent No.2/complainant made calls to the petitioner No.1 he started abusing and disconnected the phone.

8. A perusal of the FIR as well as the statement of the witnesses



recorded under Section 161 of the CrPC if perused carefully, the same reveal that so far as the petitioner No.2 is concerned, the allegations are omnibus and general. The allegations against the petitioner No. are collective in nature as well while levelling allegations of demand of dowry there is reference to the petitioner No.2 also. So far as the specific act and allegations of cruelty and torture are concerned, those allegations are against the petitioner No.1 as well as petitioner No.3 which is evident from the FIR as well as statement of the complainant recorded under Section 161 of the CrPC. Similar statements are also there in the remaining witnesses.

9. The aforesaid material reflects that so far the petitioner No.2 is concerned, there is no specific allegation mentioning the date and time on which the respondent No.2 was subjected to cruelty by the petitioner No.2 individually. The allegations against the petitioner No.2 are general and omnibus. The allegations against the relatives of the husband being general and omnibus is an aspect which is elaborately considered by the Apex Court in the Cases of Preeti Singh, Geeta Malhotra and recently Kehkasa.

10. Therefore, in the considered view of this Court, so far as the petitioner No.2 is concerned, the proceedings against him are unsustainable and the allegations being omnibus and general. So far as the challenge to the FIR on the ground of the same being a counterblast to the proceedings initiated under Section 13 of the Hindu Marriage Act is concerned, this Court is of the view that in the FIR it is clearly mentioned that the respondent No.2 made an effort to save her marital life and, therefore, even had approached the Pariwar Paramarsh Kendra also. In such situation, this Court is of the



opinion that the proceedings instituted under Section 498-A of IPC cannot be quashed merely on the ground that the proceedings under Section 13 of the Hindu Marriage Act were instituted prior to lodging of the FIR.

11. Resultantly, this petition filed under Section 482 of the CrPC stands dismissed so far as the same relates to the petitioners No.1 and 3. The Present petition filed under Section 482 of the CrPC stands partly allowed to the extent of the petitioner No.2. Entire proceedings instituted on the basis of the FIR No../..... at the Mahila Thana, Bhopal so far as they relate to the petitioner No.2 stand quashed. The petitioner No.2 stands discharged of the charges. Bail bond, if any, also stands discharged.

(MANINDER S. BHATTI)
JUDGE