

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

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 20th OF MAY, 2024

MISCELLANEOUS CRIMINAL CASE No. 12726 of 2024

BETWEEN:-

1. RAVI SHRIVAS S/O SHRI RAMNARAYAN SHRIVAS, AGED ABOUT 31 YEARS, OCCUPATION: PRIVATE JOB R/O C-66, INDRAVIHAR COLONY, AIRPORT ROAD, BHOPAL (MADHYA PRADESH)
2. RAMNARAYAN SHRIVAS S/O PREMNARAYAN SHRIVAS, AGED ABOUT 62 YEARS, R/O C-66, INDRAVIHAR COLONY, AIRPORT ROAD, BHOPAL (MADHYA PRADESH)
3. ANITA SHRIVAS W/O RAMNARAYAN SHRIVAS, AGED ABOUT 58 YEARS, R/O C-66, INDRAVIHAR COLONY, AIRPORT ROAD, BHOPAL (MADHYA PRADESH)

.....APPLICANTS

(BY SHRI AMIT KUMAR SONI - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH THROUGH ITS PRINCIPAL SECRETARY, DEPARTMENT OF HOME, GOVERNMENT OF M.P. VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
2. SMT. CHETNA PURWAR (SHRIVAS) W/O RAVI SHRIVAS D/O BRIJMOHAN PUWAR, AGED ABOUT 30 YEARS, R/O HOUSE NO 28 NEW GANDHI NAGAR TEELAJAMPURA BHOPAL (MADHYA PRADESH)
3. THE STATION HOUSE OFFICER, POLICE STATION KOHE FIZA DISTRICT BHOPAL (MADHYA PRADESH)

.....RESPONDENTS

(STATE BY SHRI ROHIT JAIN - PUBLIC PROSECUTOR)

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

ORDER

This application under Section 482 of Cr.P.C. has been filed seeking following relief(s):-

- "1. To quash the impugned FIR dated 09.02.2021 registered at Police Station Kohe Fiza, Bhopal FIR no.67/2021 and all subsequent proceedings.
2. Pass order for other relief/ direction which this Hon'ble Court deems fit and proper looking to the fact and circumstances of the case in the interest of justice.
3. To call the record of court below.
4. Allow the petition with cost."

2. It is submitted by counsel for the applicants that respondent No.2 had stayed in her matrimonial house for a period of 25 days. The FIR was lodged after the application under Section 9 of Hindu Marriage Act was filed on 09/01/2021. Thereafter even respondent No.2 had also filed an application under Section 13 of Hindu Marriage Act and the application filed by respondent No.2 has been dismissed, whereas application filed by applicant No.1 under Section 9 of Hindu Marriage Act has been allowed, which clearly shows that the allegations of cruelty are false.

3. Considered the submissions made by counsel for the applicants.

4. Applicants have filed a copy of judgment and decree dated 10/05/2023 passed by Additional Principal Judge, Family Court Bhopal

in RCS HM No.120/2022 (under Section 13 of Hindu Marriage Act) and RCS HM No.85/2021 (under Section 9 of Hindu Marriage Act).

5. It is well established principle of law that the findings recorded by the Civil Court are not binding on the Criminal Court.

6. Furthermore, this Court has gone through the findings recorded by the Additional Principal Judge, Family Court Bhopal in the application filed under Section 13 of Hindu Marriage Act as well as under Section 9 of Hindu Marriage Act.

7. Certain very surprising findings have been given by the Trial Court. In paragraph 30 of the judgment and decree, it is mentioned that if there was a dispute between respondent No.2 and her in-laws, then instead of directly lodging the FIR under Section 498-A of IPC, she should have made other complaints to the Police. Therefore, it was held that act of respondent No.2 in directly lodging the FIR under Section 498-A of IPC was unwarranted.

8. The aforesaid finding recorded by the Trial Court is *per se* illegal. Cruelty has been defined under Section 498-A of IPC. Cruelty does not mean that any cruelty done for demand of some property/ dowry only but any act which may lead the wife to commit suicide or which may be dangerous for her life, limb etc. would also amount to cruelty. If a wife makes a complaint to the Police pointing out the cruelty meted out to her, then apart from other offences, Police will have to register offence under Section 498-A of IPC.

9. The observation made by the Trial Court that respondent No.2 should not have directly lodged the offence under Section 498-A of IPC

but she should have lodged complaint with the Police is concerned, it is contrary to law.

10. Furthermore, it is an admitted fact that one Locker in the Bank was opened in the name of respondent No.2 and expenses for opening the Locker were borne by respondent No.2 and even the FD which is to be kept with the Bank also belongs to respondent No.2. However, key of the said Locker is with the mother of applicant No.1 i.e. mother-in-law of respondent No.2. Even during the course of arguments, it was fairly conceded that key is with mother-in-law of respondent No.2.

11. In paragraph 34, it is mentioned that if the intention of mother-in-law of respondent No.2 was to grab the property, then she would have opened Locker in her solitary name but the Trial Court lost sight of the fact that the expenses were borne by respondent No.2 and even the FD which is to be kept with the Bank for obtaining Locker also belongs to respondent No.2, and therefore, for that purposes it appears that a joint Locker was opened but mother of applicant No.1/ mother-in-law of respondent No.2 kept the key of said Locker with her. Why mother-in-law of respondent No.2 was so keen to keep the key of said Locker has not been considered by the Trial Court but it appears that a wrong finding has been given that since a joint Locker was opened, therefore mother-in-law of respondent No.2 had love and affection for respondent No.2.

12. Be that whatever it may be, but once it is settled principle of law that findings recorded by the Civil Court are not binding on the Criminal Court, then this Court cannot quash the FIR on the ground that Civil Court has dismissed the application filed by respondent No.2 under Section 13 of Hindu Marriage Act.

13. So far as the allegations made in the FIR are concerned, they are specific. According to the applicants, respondent No.2 had stayed in her matrimonial house for 25 days.

14. In view of short period of stay, it cannot be said that allegations are vague. Disclosure of date would be required when allegations are spread for years together. Once the stay of respondent No.2 in her matrimonial house was only for 25 days, then that short tenure by itself is sufficient to consider the allegations and it cannot be said that since specific dates of atrocities have not been disclosed by respondent No.2, therefore allegations are vague and general in nature.

15. 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.* (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* (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*, (2000) 8 SCC 547 : 2001 SCC (Cri) 27, *Pepsi Foods Ltd. v. Judicial Magistrate*, (1998) 5 SCC 749 : 1998 SCC (Cri) 1400, *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.*, (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.”

16. Considering the totality of facts and circumstances of the case, this Court is of considered opinion that no case is made out warranting interference.

17. Accordingly, application fails and is hereby **dismissed**.

(G.S. AHLUWALIA)
JUDGE

S.M.