

**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR  
BEFORE  
HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA  
ON THE 20<sup>th</sup> OF MAY, 2024  
MISC. CRIMINAL CASE No. 16026 of 2024**

**BETWEEN:-**

1. SAGAR S/O PREMLAL SHRIWAS, AGED ABOUT 34 YEARS, OCCUPATION: LAWYER R/O PLOT NO.29, NIRMAL COLONY, NEAR NARA WATER TANK, NARA ROAD, JARIPATKA NAGPUR (MAHARASHTRA)
2. PREMLAL S/O NATHULAL SHRIWAS, AGED ABOUT 64 YEARS, OCCUPATION: RETIRED RESIDENT OF PLOT NO.29 NIRMAL COLONY NEAR NARA WATER TANK NARA ROAD JARIPATKA NAGPUR (MAHARASHTRA)
3. SHAILA W/O PREMLAL SHRIWAS, AGED ABOUT 59 YEARS, OCCUPATION: LAWYER R/O PLOT NO. 29 NIRMAL COLONY NEAR NARA WATER TANK NARA ROAD JARIPATKA NAGPUR MAHARSHTRA (MAHARASHTRA)

.....APPLICANTS

(BY SHRI H.S.VERMA AND SHRI V.S.THAKUR - ADVOCATES)

**AND**

1. THE STATE OF MADHYA PRADESH THROUGH MAHILA THANA MADAN MAHAL JABALPUR DISTRICT JABALPUR (MADHYA PRADESH)
2. ARTI W/O SAGAR SHRIWAS @ ARTI D/O LATE ASHOK SARATHE, AGED ABOUT 59 YEARS, OCCUPATION: LAWYER R/O PLOT NO. 1256 SUBHASH NAGAR ZHANDA CHOWK NAYI BASTI RANJHI MANEGAON JABALPUR

**(MADHYA PRADESH)**

3. **ASHISH S/O LATE ASHOK SARATHE, AGED ABOUT 31 YEARS, OCCUPATION: LAWYER MOB. NO. 8103434805 R/O PLOT NO. 1256 SUBHASH NAGAR ZHANDA CHOWK NAYI BASTI RANJHI MANEGAON JABALPUR 482005 (MADHYA PRADESH)**
4. **AMIT S/O LATE ASHOK SARATHE, AGED ABOUT 35 YEARS, OCCUPATION: BUSINESS MOB. 8103434805 R/O PLOT NO. 1256 SUBHASH NAGAR ZHANDA CHOWK NAYI BASTI RANJHI MANEGAON JABALPUR 482005 (MADHYA PRADESH)**
5. **PRABHA W/O LATE ASHOK SARATHE, AGED ABOUT 31 YEARS, OCCUPATION: HOUSEWIFE MOB. 8103434805 R/O PLOT NO. 1256 SUBHASH NAGAR ZHANDA CHOWK NAYI BASTI RANJHI MANEGAON JABALPUR 482005 (MADHYA PRADESH)**
6. **NARENDRA SARATHE S/O GAUR P.SHANKAR SARATHE, AGED ABOUT 55 YEARS, OCCUPATION: BUSINESS R/O MAIN MARKET IN FRONT OF GOVERNMENT SCHOOL SHAHPUR (MADHYA PRADESH) 487221 MOB. 8120225608**
7. **NARAYAN SARATHE S/O PHOOL SINGH SARATHE, AGED ABOUT 55 YEARS, OCCUPATION: BUSINESS R/O C/O SARATHE SECURITY SYSTEM NEAR GOTEGAON BUS STAND MAIN ROAD DHUMA (MADHYA PRADESH) 480888 MOB. 9424757147**

**.....RESPONDENTS**

.....

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

**ORDER**

This application under section 482 of CrPC has been filed seeking the following reliefs :-

“a). Quash and Set Aside the FIR & Charge sheet pending before J.M.F.C. having FIR No. 13/2024 in the Case No. R.C.T./1168/2024 for offences Under Section 498A, 406, 34 IPC and 3, 4 Dowry Prohibition Act against the petitioner(s);

b) During pendency of application, Grant stay on proceeding & No. Coercive Action in the Case No. R.C.T./1168/2024 offences U/s 498A, 406, 34 IPC and 3, 4 Dowry Prohibition Act and its proceedings at may kindly be stayed.

c) Ad-interim relief in terms of prayer clause (b) may kindly be passed in favour of application(s) during pendency of present application;

d) Any other relief which this Hon'ble Court deems fit and proper may kindly be accorded in the circumstances of the circumstances of the case.”

2. It is submitted by counsel for applicants that the applicant no.1 is a practicing advocate; whereas the brother of respondent no.2 is also a practicing advocate. In fact the respondent no.2 has been misled by his brother, which is evident from various documents, according to which, the respondent no.2 had given in writing that the earlier complaint made by her was at the behest and misleading

advice given by her brother but no incident of harassment has taken place.

3. It is further submitted that the allegations made in the FIR are false. No demand of dowry was made. Even the applicant no.1 had come down to Jabalpur along with his wife to attend a marriage ceremony, which was happily attended by the respondent no.2. It is submitted that since the FIR has been lodged at the behest of her brother, who is a practicing advocate, therefore, the same is false and is liable to be quashed.

4. Heard the learned counsel for the applicants.

5. It was the contention of the counsel for the applicants that since the brother of respondent no.2 is a practicing advocate, therefore, under his misguidance the respondent no.2 is making false allegations and on earlier occasions also she had admitted the mistake of her brother.

6. The Supreme Court in the case of **XYZ v. State of Gujarat** reported in **(2019) 10 SCC 337** has held as under :

“14. Having heard the learned counsel for the parties and after perusing the impugned order and other material placed on record, we are of the view that the High Court exceeded the scope of its jurisdiction conferred under Section 482 CrPC, and quashed the proceedings. Even before the investigation is completed by the investigating agency, the High Court entertained the writ petition, and by virtue of interim order granted by the High Court, further investigation was stalled. Having regard to the allegations made by the appellant/informant, whether the 2nd respondent by clicking inappropriate pictures of the appellant has blackmailed her or not, and further the 2nd respondent has continued to interfere by calling Shoukin Malik or not are the matters for

investigation. In view of the serious allegations made in the complaint, we are of the view that the High Court should not have made a roving inquiry while considering the application filed under Section 482 CrPC. Though the learned counsel have made elaborate submissions on various contentious issues, as we are of the view that any observation or findings by this Court, will affect the investigation and trial, we refrain from recording any findings on such issues. From a perusal of the order of the High Court, it is evident that the High Court has got carried away by the agreement/settlement arrived at, between the parties, and recorded a finding that the physical relationship of the appellant with the 2nd respondent was consensual. When it is the allegation of the appellant, that such document itself is obtained under threat and coercion, it is a matter to be investigated. Further, the complaint of the appellant about interference by the 2nd respondent by calling Shoukin Malik and further interference is also a matter for investigation. By looking at the contents of the complaint and the serious allegations made against 2nd respondent, we are of the view that the High Court has committed error in quashing the proceedings.”

(Underline supplied)

7. The Supreme Court in the case of **State of Tamil Nadu Vs. S. Martin & Ors.** reported in **(2018) 5 SCC 718** has held as under:-

"7. In our view the assessment made by the High Court at a stage when the investigation was yet to be completed, is completely incorrect and uncalled for ....."

8. The Supreme Court in the case of **Ajay Kumar Das v. State of Jharkhand**, reported in **(2011) 12 SCC 319** has held as under :

“12. The counsel appearing for the appellant also drew our attention to the same decision which is

relied upon in the impugned judgment by the High Court i.e. *State of Haryana v. Bhajan Lal*. In the said decision, this Court held that it may not be possible to lay down any specific guidelines or watertight compartment as to when the power under Section 482 CrPC could be or is to be exercised. This Court, however, gave an exhaustive list of various kinds of cases wherein such power could be exercised. In para 103 of the said judgment, this Court, however, hastened to add that as a note of caution it must be stated that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases for the Court would not be justified in embarking upon an inquiry as to the reliability or genuineness or otherwise of the allegations made in the first information report or in the complaint and that the extraordinary or the inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice.”

9. The Supreme Court in the case of **Mohd. Akram Siddiqui v. State of Bihar** reported in **(2019) 13 SCC 350** has held as under :

“5. Ordinarily and in the normal course, the High Court when approached for quashing of a criminal proceeding will not appreciate the defence of the accused; neither would it consider the veracity of the document(s) on which the accused relies. However an exception has been carved out by this Court in *Yin Cheng Hsiung v. Essem Chemical Industries; State of Haryana v. Bhajan Lal* and *Harshendra Kumar D. v. Rebatilata Koley* to the effect that in an appropriate case where the document relied upon is a public document or where veracity thereof is not disputed by the complainant, the same can be considered.”

10. The Supreme Court in the case of **State of A.P. v. Gourishetty Mahesh** reported in **(2010) 11 SCC 226** has held as under :

**“18.** While exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge/Court. It is true that the Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, otherwise, it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time, Section 482 is not an instrument handed over to an accused to short-circuit a prosecution and brings about its closure without full-fledged enquiry.

**19.** Though the High Court may exercise its power relating to cognizable offences to prevent abuse of process of any court or otherwise to secure the ends of justice, the power should be exercised sparingly. For example, where the allegations made in the FIR or complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused or allegations in the FIR do not disclose a cognizable offence or do not disclose commission of any offence and make out a case against the accused or where there is express legal bar provided in any of the provisions of the Code or in any other enactment under which a criminal proceeding is initiated or sufficient material to show that the criminal proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused due to private and personal grudge, the High Court may step in.

**20.** Though the powers possessed by the High Court under Section 482 are wide, however, such power requires care/caution in its exercise. The interference must be on sound principles and the inherent power should not be exercised to stifle a legitimate prosecution. We make it clear that if the allegations set out in the complaint do not constitute the offence

of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of inherent powers under Section 482.”

**11.** The Supreme Court in the case of **M. Srikanth v. State of Telangana**, reported in **(2019) 10 SCC 373** has held as under :

“17. It could thus be seen, that this Court has held, that where the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute a case against the accused, the High Court would be justified in quashing the proceedings. Further, it has been held that where the uncontroverted allegations in the FIR and the evidence collected in support of the same do not disclose any offence and make out a case against the accused, the Court would be justified in quashing the proceedings.”

**12.** The Supreme Court in the case of **CBI v. Arvind Khanna** reported in **(2019) 10 SCC 686** has held as under :

“17. After perusing the impugned order and on hearing the submissions made by the learned Senior Counsel on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 CrPC, the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant CBI, and the defence put forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 CrPC.

**18.** In our view, the assessment made by the High



Court at this stage, when the matter has been taken cognizance of by the competent court, is completely incorrect and uncalled for.”

13. Further, the Supreme Court in the case of **State of MP Vs. Kunwar Singh** by order dated **30.06.2021** passed in **Cr.A. No.709/2021** has held that a detailed and meticulous appreciation of evidence at the stage of 482 of CrPC is not permissible and should not be done. In the case of **Kunwar Singh (supra)**, the Supreme Court held as under:-

"8.....At this stage, the High Court ought not to be scrutinizing the material in the manner in which the trial court would do in the course of the criminal trial after evidence is adduced. In doing so, the High Court has exceeded the well-settled limits on the exercise of the jurisdiction under Section 482 of CrPC. A detailed enquiry into the merits of the allegations was not warranted. The FIR is not expected to be an encyclopedia....."

14. Similar law has been laid down by the Supreme Court in the cases of **Munshiram v. State of Rajasthan**, reported in (2018) 5 SCC 678, **Teeja Devi v. State of Rajasthan** reported in (2014) 15 SCC 221, **State of Orissa v. Ujjal Kumar Burdhan**, reported in (2012) 4 SCC 547, **S. Khushboo v. Kanniammal** reported in (2010) 5 SCC 600, **Sangeeta Agrawal v. State of U.P.**, reported in (2019) 2 SCC 336, **Amit Kapoor v. Ramesh Chander** reported in (2012) 9 SCC 460, **Padal Venkata Rama Reddy Vs. Kovuri Satyanarayana Reddy** reported in (2012) 12 SCC 437, **M.N. Ojha v. Alok Kumar Srivastav** reported in (2009) 9 SCC 682.

15. Thus, it is clear that this Court can quash the proceedings only if the uncontroverted allegations do not make out a cognizable

offence. This Court cannot appreciate the correctness of the allegations made in the FIR.

**16.** So far as the contention of counsel for applicants that since the brother of the respondent no.2 is a practicing lawyer, therefore, she is lodging false reports against the applicants under his misguidance is concerned, the counsel for applicants was directed to clarify the aforesaid sentence.

**17.** It is submitted by counsel for applicants that since the brother of respondent no.2 is a law-knowing person, therefore, he is spoiling the life of his sister/respondent no.2. The aforesaid submission made by counsel for applicants cannot be accepted. Why a brother would make an attempt to spoil the life of his sister merely because he is a practicing lawyer?

**18.** If the brother of the respondent no.2 is a practicing lawyer and therefore, he is aware of the legal provisions of law then the same principle would also apply to applicant no.1 because he is also a practicing lawyer and he knows that what defences are to be created to save himself from the criminal prosecution. If certain confessional and exculpatory statements were got recorded from the respondent no.2, then it is also possible that the applicant no.1 being the law knowing person was aware of the fact that he can get rid of the complaint made by respondent no.2 by obtaining such exculpatory statements.

**19.** Be that whatever it may be.

**20.** The aforementioned observation should not be treated as an observation on merit because this Court cannot judge the correctness of the allegations as well as the defence of the parties and has to decide the matter strictly on the basis of uncontroverted allegations.

Since the counsel for applicants had alleged against the brother of respondent no.2 by saying that he is a practicing lawyer therefore, the aforesaid observation has been made in order to check the gravity of the said sentence.

**21.** No arguments have been raised with regard to the allegations made in the FIR. Even otherwise, the FIR prima facie makes out an offence of cruelty.

**22.** As no other argument has been advanced by the counsel for the applicants, therefore, no case is made out warranting quashment of the FIR or the chargesheet.

**23.** The application fails and is hereby **dismissed**.

**(G.S.AHLUWALIA)**  
**JUDGE**

TG/-