

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

BEFORE

HON'BLE SHRI JUSTICE SANJAY DWIVEDI

ON THE 24th OF APRIL, 2025

M.Cr.C. No.55577 of 2024

VARUN TIWARI

Versus

STATE OF MADHYA PRADESH AND ANOTHER

.....
Appearance :

*Shri Sankalp Kochar, Shri Rajeev Upadhyay and Shri Poonam Chandra Soni –
Advocates for the petitioner.*

Shri Alok Agnihotri – Government Advocate for respondent No.1/State.

Shri Abhishek Dilraj – Advocate for respondent No.2.
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Reserved on : 03.04.2025

Pronounced on : 24.04.2025

ORDER

With the consent of learned counsel for the parties, the matter is finally heard.

2. This petition has been filed invoking the inherent powers provided to the High Court under Section 482 of the Code of Criminal Procedure / Section 528 of Bharatiya Nagrik Suraksha Sanhita, 2023 for quashing of FIR and also the charge-sheet filed by the respondent/prosecution on an offence registered vide Crime No.29/2024 on 16.08.2024 at Police Station Mahila Thana, District Satna, under Sections 498-A and 294 of the Indian Penal Code.

3. The facts leading to the present petition lie in a narrow compass are that;

- (3.1) The petitioner and respondent No.2 entered into marriage on 22.05.2013 which was solemnized as per Hindu Rities. The petitioner is a police officer and after marriage, respondent No.2 was residing with the petitioner.
- (3.2) On 27.01.2024, a complaint was made by respondent No.2 to the SHO, Mahila Thana Satna, District Satna, alleging therein that she entered into marriage with the present petitioner in the year 2013 and out of the said wedlock, she has given birth to a child, who on the date of complaint was about 9 years old. She has also stated that till 2-3 years of marriage, the attitude of the petitioner towards respondent No.2 was normal but after delivering the child, his attitude got changed and he refused to keep respondent No.2 with him. The petitioner had left respondent No.2 to her in-laws house at Khargone whereas he started living at his place of posting i.e. at Bhind where he was living alone and whenever he used to come to meet his mother, then he and his mother, both used to abuse respondent No.2 and also to her parents saying that adequate dowry was not given as per their status and they used to mentally harass respondent No.2. The allegations of physical assault was also levelled in the said complaint. They also threatened her that they were thinking of his second marriage and harassment was being done with an intention to provoke her to commit suicide.

- (3.3) As per the complaint, the situation became unbearable and therefore, respondent No.2 called her father and then on 23.01.2024, the petitioner and his mother created such a scene and abused respondent No.2 and her father so badly then they called the police and with the help of police somehow they managed to escape from the scene and reached a hotel.
- (3.4) It is mentioned that at Khargone the report could not be made to the police under the fear and threat of the petitioner and it is requested that appropriate proceeding be initiated against the petitioner.
- (3.5) Another complaint was made to the Superintendent of Police on 29.01.2024 reiterating the same facts then FIR was registered on 16.08.2024 vide Crime No.29/2024 and offence got registered under Section 498-A and 294 of IPC.
- (3.6) As per the contents of FIR, the petitioner immediately after marriage used to mentally and physically harass respondent No.2 and she used to live with her husband wherever he was posted.
- (3.7) In the year 2014, she had delivered a child namely Aryan Tiwari and thereafter, in the year 2017, the petitioner was transferred to Balaghat.
- (3.8) It is also mentioned in the complaint that the father-in-law used to try reconcile with the petitioner but the relationship between the petitioner/husband and respondent No.2/wife

became more and more bitter day by day.

- (3.9) In the year 2019, the petitioner got transferred to Khargone and since the petitioner was harassing respondent No.2 very badly, therefore, she called her father and informed the Superintendent of Police, Bhind and Police Station Kotwali about her plight and thereafter with her father, she came back to her parental home. The attitude of the petitioner was incordial and according to the contents of FIR, he was making allegations against the character of respondent No.2. He was not willing to keep her with him at any cost. Many people tried to resolve the dispute but ultimately they all failed.
- (3.10) On 17.01.2024, the petitioner assaulted respondent No.2, then she called her father and came back to her parental home and started living there in Satna. Even while residing at Satna, she tried her best to resolve the dispute but nothing positive happened. An approach to the Parivar Paramarsh Kendra was made and the petitioner came over there and everybody tried to make him understand but all in vain. He was not willing to keep respondent No.2 and the child with him and then, FIR was lodged by respondent No.2 as she was left with no other option.
- (3.11) In the backdrop of aforesaid factual matrix, petitioner is before this Court asking for quashing of FIR registered against him.

4. Shri Kochar, learned counsel for the petitioner has submitted that

from the contents of FIR, it can be seen that only omnibus allegations are made in it and even there was no demand of dowry. He has submitted that respondent No.2 had left the house of petitioner/husband on 17.01.2024 but the complaint was made on 16.08.2024 after almost seven months. He has submitted that the petitioner has filed an application under Section 9 of the Hindu Marriage Act, for reconciliation of marriage which is available on record filed in the month of March, 2024 before the Fourth Additional Sessions Judge, Khargone. Shri Kochar, although, has submitted that the present FIR is nothing but an afterthought and is an offshoot of Section 9 proceeding initiated by the petitioner/husband. According to him, a notice to that application was issued on 01.03.2024 and on 31.03.2024, the counsel appeared on behalf of respondent No.2. The petitioner/husband has also made several applications to the authority saying that a false complaint made against him whereas in Section 9 proceeding, nothing adverse happened between the parties that could create an unpleasant situation. He has further submitted that the statement of respondent No.2 was also recorded on 17.08.2024, in which also there was no specific allegation of demand of dowry and it is nothing but a reiteration of facts mentioned in the FIR. However, in the statement of father of respondent No.2, namely, Kailash Kumar Pandey, there is no allegation of demand of dowry but the only allegation with regard to harassment saying incordial relation between the husband and wife is there. The statement of Rambahor Gupta, has also been recorded, in which he has stated before the police that the father of respondent No.2 informed that respondent No.2 has come to him and started residing alone because the relationship between the petitioner/husband and respondent No.2/wife was not cordial and they used to quarrel very often. As such, there is

nothing specific about any demand of dowry. In the statement of witnesses i.e. child Aryan Tiwari has also been taken and he has also stated that 'Mummy-Papa' used to fight with each other very often. The statement of brother of respondent No.2 namely Pratiraj Pandey has also been recorded and he has also reiterated almost the same facts about fight between the husband and wife and mental and physical harassment by the present petitioner.

5. Respondent No.2 has also produced an application under Section 125 of the CrPC along with his son before the Family Court Satna claiming maintenance in which also she has made allegation that the petitioner used to abuse her and also to torture her physically and mentally but Shri Kochar has submitted that even in a complaint made to the police authorities and also in the application filed under Section 125 of CrPC, the allegations are very general in nature, nothing specific even not indicating the date of incident. He has submitted that there was no allegation about demand of dowry. He has submitted that in view law laid down by the Supreme Court and also by this Court that now it has become a practice to make omnibus allegation for registering the offence under Section 498-A and this is not proper and this practice has been deprecated directing the authorities to be cautious about that and be careful while registering such an offence. He has submitted that in the existing circumstances and considering the over all material, the case of 498-A is not made out and the offence of Section 294 of the IPC can be quashed on the ground that there is delay in lodging the FIR and allegations are omnibus. The present petitioner is a government employee and if offence is registered and tried, a great prejudice would cause to him.

6. Shri Abhishek Dilraj, learned counsel appeared for respondent No.2 and filed the reply along with several documents and submitted that the present FIR is not an offshoot of Section 9 proceeding submitted by the husband. According to him, Section 9 application in an offshoot of application filed by respondent No.2 under Section 125 of the CrPC so as to avoid maintenance on the ground that the petitioner wanted to keep respondent No.2 with him but she without any cause residing separately. Shri Dilraj has submitted that in a complaint made to the police on 27.01.2024, there is an allegation that the harassment was being done by the petitioner and his mother because they were not satisfied with the dowry given. He has submitted that at this stage, it is difficult to determine whether the allegations made in the complaint are correct or not and a mini trial cannot be conducted at this stage. He has placed reliance upon several judgments reported in **(2008) 12 SCC 481 (K.D. Sharma Vs. Steel Authority of India and others)**, **2024 SCC OnLine SC 2621 (Kailashben Mahendrabhai Patel and Others Vs. State of Maharashtra and another)** and also upon the judgment passed in **SLP (Crl.) No.9243 of 2024 (Aluri Venkata Ramana Vs. Aluri Thirupathi Rao & Ors.)**.

7. Considering the submissions made by learned counsel for the parties and on perusal of record, this court is of the opinion that in the FIR undisputably there was no specific allegation in respect of demand of dowry. Although, it is clear that the relationship between the husband and wife was not cordial and often there used to be quarrel between them and allegation has been made in respect of mental and physical harassment done by the complainant. Respondent No.2 left the house on 17.01.2024 but the FIR made on 16.08.2024. Although, there are

complaints filed by respondent No.2 showing that the police authorities have also been intimated but those reports also did not contain any specific allegation with regard to demand of dowry and specific date of incident. Although, in one of the complaints i.e. Annexure-R/3 dated 27.01.2024, the following allegations have been made:-

“.....दहेज कम देने की बात करना तथा मुझे अपने स्टेटस के मुताबिक न कहकर मानसिक रूप से प्रताड़ित करना.....”

This is the sole allegation, but it cannot be said that there was any demand of dowry.

8. At this stage, it is relevant to see the provisions of Section 498-A of IPC, which prescribes as under:-

“Section 498-A of the Indian Penal Code (IPC) criminalizes cruelty by a husband or his relatives against a married woman. It's a crucial law protecting women from marital abuse, including physical, mental, and emotional harm, and harassment related to dowry demands. The punishment for violating this section is imprisonment for up to three years and a fine.”

In view of the aforesaid requirements and the allegations made which are available on record, this court is of the opinion that the sufficient material and ingredients are not available so as to constitute the offence of Section 498-A of the IPC.

9. Likewise, the offence of Section 294 of the IPC which prescribes as under:-

“Section 294 of the Indian Penal Code (IPC) addresses obscene acts and songs performed in public, causing annoyance or objection to others. It punishes individuals who do any obscene act to the annoyance of others in a public place, or who sing, recite, or utter any obscene song, ballad, or words in or near a public

place.”

10. In view of the aforesaid provisions, the allegations available on record are not sufficient to constitute the offence under Sections 498-A and 294 of the IPC.

11. The counsel for the petitioner has relied upon a case of **Kailashben Mahendrabhai Patel** (supra), in which the Supreme Court dealing with the power provided under Section 482 of Cr.P.C. asking for quashing of FIR has laid down the importance of specific allegation so as to register the FIR but not on the basis of omnibus allegations. The observation made in the said case is as under:-

“**10.** We will now examine the ‘specific allegations’ in the FIR/complaint. Firstly, the complainant referred to certain items which are said to have been given by her father at the time of marriage. These items are (i) one Scorpio car; (ii) T.V.; (iii) fridge; (iv) DVD Tape; (v) silver utensils; (vi) 100 to 150 tolas gold; (vii) and Rs. 5 lacs. This allegation relates to the year 2002 and the present complaint is of the year 2013. It is important to mention at this very stage that identical allegations in a DV case filed by the complainant were taken up at trial and the Judicial Magistrate, First Class had disbelieved the complainant's version. We will be dealing with the judgment of the Judicial Magistrate, First Class in little more detail in the succeeding paras of the judgment. The second allegation relates to a bare statement that there exists a joint locker and that the keys of the said locker are with her stepmother-in-law, that is the appellant no. 1. Even on this, the Judicial Magistrate, First Class has observed that there are no details whatsoever, about the bank or the locker.

10.1 The tendency to make general, vague, and omnibus allegation is noticed by this Court in many decisions. In **Usha Chakraborty v. State of W.B. 2023 SS OnLine SC 90**, this court observed that:

“16... the respondent alleged commission of offences under Sections 323, 384, 406, 423,

467, 468, 420 and 120B, IPC against the appellants. A bare perusal of the said allegation and the ingredients to attract them, as adverted to hereinbefore would reveal that the allegations are vague and they did not carry the essential ingredients to constitute the alleged offences.... The ingredients to attract the alleged offence referred to hereinbefore and the nature of the allegations contained in the application filed by the respondent would undoubtedly make it clear that the respondent had failed to make specific allegation against the appellants herein in respect of the aforesaid offences. The factual position thus would reveal that the genesis as also the purpose of criminal proceedings are nothing but the aforesaid incident and further that the dispute involved is essentially of civil nature. The appellants and the respondents have given a cloak of criminal offence in the issue ...”

10.2 Similarly, dealing with allegations lacking in particulars and details, in *Neelu Chopra v. Bharti* (2009) 10 SCC 184, this court observed that:

“7. ...what strikes us is that there are no particulars given as to the date on which the ornaments were handed over, as to the exact number of ornaments or their description and as to the date when the ornaments were asked back and were refused. Even the weight of the ornaments is not mentioned in the complaint and it is a general and vague complaint that the ornaments were sometime given in the custody of the appellants and they were not returned. What strikes us more is that even in Para 10 of the complaint where the complainant says that she asked for her clothes and ornaments which were given to the accused and they refused to give these back, the date is significantly absent.”

11. The third allegation is against appellant no. 1, the mother-in-law, who is said to have threatened the complainant when she gave birth to a girl child. The threat is that the complainant will not get her gold and silver ornaments, and her husband will not get any

share in the property. The allegations are again vague, lacking in basic details. The essence of the complaint is in the alleged threat to deprive the husband any share in the property with respect to which the husband has already filed the suit for declaration.

12. The complaint also refers to a small incident where the complainant's brother accompanied her to the matrimonial house, when the appellants no. 1 and 3 are alleged to have refused to take her back but on persuasion by her brother, she was allowed to stay. There is also a vague allegation that, when the complainant gave birth to a second child, appellants 1 and 2 came and “quarrelled” with the complainant, her brother, parents and threatened them. This Court had occasion to examine the phenomenon of general and omnibus allegations in the cases of matrimonial disputes. In *Mamidi Anil Kumar Reddy v. State of A.P.* 2024 SSC OnLine SC 127, this Court observed that:

“14. ...A bare perusal of the complaint, statement of witnesses’ and the charge-sheet shows that the allegations against the Appellants are wholly general and omnibus in nature; even if they are taken in their entirety, they do not prima facie make out a case against the Appellants. The material on record neither discloses any particulars of the offences alleged nor discloses the specific role/allegations assigned to any of the Appellants in the commission of the offences.

15. The phenomenon of false implication by way of general omnibus allegations in the course of matrimonial disputes is not unknown to this Court. In Kahkashan Kausar alias Sonam v. State of Bihar, this Court dealt with a similar case wherein the allegations made by the complainant-wife against her in-laws u/s. 498A and others were vague and general, lacking any specific role and particulars. The court proceeded to quash the FIR against the accused persons and noted that such a situation, if left unchecked, would result in the abuse of the process of law.”

13. There is also an allegation against the appellant no. 2 about which the complainant passingly

mentioned that “my daughter's education disturbed since my brother-in-law Rahul cancelled her school admission by signing fraudulently”. The complaint is again silent about when such an act was done, where was it done, which was the school in which the admission was cancelled, what documents were signed for such cancellation, and what is fraud played by him. It is impossible to conceive of any offence on the basis of such vague and unclear allegations. Lastly, there is an allegation against the appellant no. 4, the Munim against whom it is said “Vijay Ranchhodbhai Patel is telling stories to my in-laws against me, my husband and my children and making them to mentally torture us”. The Munim is said to have threatened them and ask them to go away as there is nothing left for them as the entire property belongs to Rahul, appellant no. 2.

13.1 In *Kahkashan Kausar v. State of Bihar*⁷ this Court noticed the injustice that may be caused when parties are forced to go through tribulations of a trial based on general and omnibus allegations. The relevant portion of the observation is as under:

“11. ...in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as Section 498-A IPC as instruments to settle personal scores against the husband and his relatives.

18. ... 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... However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.

21. ...it would be unjust if the appellants are forced to go through the tribulations of a trial i.e. general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this Court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must, therefore, be discouraged."

14. One important event that gives us a clear impression that the criminal proceedings were instituted with a mala fide intention, only to harass the appellants, is the filing of the Domestic Violence case. After the institution of the Civil Case on 27.02.2013 and thereafter the present Criminal Complaint/FIR, respondent no. 2 filed a complaint under Section 12 of the Domestic Violence Act on 06.04.2013, based on similar allegations. The DV complaint refers to the same items, a Scorpio car, T.V., fridge, DVD Tape, silver articles, 100 to 150 tolas gold and cash of Rs. 5 lacs as dowry. Again, there is an allegation that the accused have threatened that she will not get a share in the property as she gave birth to a girl child. There are similar allegations against appellant no. 2 as well as the Munim, the appellant no. 4. The domestic violence complaint went to trial and culminated in a detailed judgment of the Judicial Magistrate, First Class, Jalna dated 16.01.2019. We are informed that the judgment and order has become final as there was no appeal against the said order. While dismissing the domestic violence complaint, the learned judge observed as under:

"19. During cross examination, the applicant admitted that the property dispute is going on in between her and respondents. Again, she voluntarily stated that the property dispute is

pending in between her husband and parents in law. Moreover, the applicant appears deposed specifically that where ever Joint Bank Accounts are in the name of respondents, her and her husband, in such cases, respondents shall be prohibited from operation said accounts and she shall be allowed to operate. It further appears that the applicant family shall be provided same level of accommodation as holding by respondents.

20. The above ocular evidence and admission are clearly suggesting that the applicant has brought the present application at the behest of her husband and with ulterior motive to grab property which the husband of the applicant may be entitled by other provisions of law. The wordings used in the application reveal selfish nature of the applicant. Hence, in the given circumstances, I am of opinion that it would be unsafe to rely on the sole testimony of the applicant without corroboration.

21. It seems that the applicant has not brought any other cogent and reliable evidence in support of her said oral evidence. Moreover, it appears that the case filed u/s 498(A) of IPC bearing RCC No. 376/2014 is not yet concluded. There is no record showing that respondents have been held guilty till today in that matter. It means that said allegations are not yet proved and not available for corroboration purpose. Therefore, I am coming to the conclusion that there is no cogent and reliable evidence as to domestic violence and accordingly I record my finding to Point No. 1 as "No"."

12. He has also placed reliance upon a judgment reported in **2024 SCC OnLine 759 (Achin Gupta Vs. State of Haryana and Another)** in which the Supreme Court has analysed the factual aspect of the matter and observed as under:-

“**15.** Having heard the learned counsel appearing for the parties and having gone through the materials on record, the only question that falls for our consideration is whether the criminal proceedings should be quashed?

16. The Appellant and the Respondent No. 2 got married in October 2008. The couple lived together for more than a decade and in the wedlock a child was born in March 2012.

17. We take notice of the fact that the Appellant filed a divorce petition in July 2019 on the ground of cruelty. The divorce petition was withdrawn as the Appellant was finding it difficult to take care of his child, while travelling all the way to Hisar on the dates fixed by the Court. The Appellant's mother had to file a domestic violence case against the First Informant in October 2020 under the provisions of the Protection of Women from Domestic Violence Act, 2005.

18. The plain reading of the FIR and the chargesheet papers indicate that the allegations levelled by the First Informant are quite vague, general and sweeping, specifying no instances of criminal conduct. It is also pertinent to note that in the FIR no specific date or time of the alleged offence/offences has been disclosed. Even the police thought fit to drop the proceedings against the other members of the Appellant's family. Thus, we are of the view that the FIR lodged by the Respondent No. 2 was nothing but a counterblast to the divorce petition & also the domestic violence case.

19. It is also pertinent to note that the Respondent No. 2 lodged the FIR on 09.04.2021, i.e., nearly **2 years** after the filing of the divorce petition by the Appellant and **6 months** after the filing of the domestic violence case by her mother-in-law. Thus, the First Informant remained silent for nearly 2 years after the divorce petition was filed. With such an unexplained delay in filing the FIR, we find that the same was filed only to harass the Appellant and his family members.

X

X

X

25. If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it is nothing but abuse of the process of the court. The court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, *prima facie*, whether there is any grain of truth in the allegations or whether they are made only with the sole object of involving certain individuals in a criminal charge, more particularly when a prosecution arises from a matrimonial dispute.

26. In *Preeti Gupta v. State of Jharkhand*, reported in 2010 Criminal Law Journal 4303 (1), this Court observed the following:—

“28. It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

29. The courts are receiving a large number of cases emanating from section 498-A of the Penal Code, 1860 which reads as under:

“498-A. Husband or relative of husband of a woman subjecting her to cruelty.-
Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.- For the purposes of this section, ‘cruelty’ means:

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

30. 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 are also a matter of serious concern.

31. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber 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 fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

32. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his

close relations.

33. 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 husband and all his immediate relations is also not uncommon. At times, even after the conclusion of 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 complaint are required to be scrutinized with great care and circumspection. 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 amicable settlement altogether. The process of suffering is extremely long and painful.

34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.

35. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of

ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law and Justice to take appropriate steps in the larger interest of the society."

X

X

X

29. The learned counsel appearing for the Respondent No. 2 as well as the learned counsel appearing for the State submitted that the High Court was justified in not embarking upon an enquiry as regards the truthfulness or reliability of the allegations in exercise of its inherent power under Section 482 of the Cr. P.C. as once there are allegations disclosing the commission of a cognizable offence then whether they are true or false should be left to the trial court to decide.

30. In the aforesaid context, we should look into the category 7 as indicated by this Court in the case of Bhajan Lal (supra). The category 7 as laid reads thus:

"(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

31. We are of the view that the category 7 referred

to above should be taken into consideration and applied in a case like the one on hand a bit liberally. If the Court is convinced by the fact that the involvement by the complainant of her husband and his close relatives is with an oblique motive then even if the FIR and the chargesheet disclose the commission of a cognizable offence the Court with a view to doing substantial justice should read in between the lines the oblique motive of the complainant and take a pragmatic view of the matter. If the submission canvassed by the counsel appearing for the Respondent No. 2 and the State is to be accepted mechanically then in our opinion the very conferment of the inherent power by the Cr. P.C. upon the High Court would be rendered otiose. We are saying so for the simple reason that if the wife on account of matrimonial disputes decides to harass her husband and his family members then the first thing, she would ensure is to see that proper allegations are levelled in the First Information Report. Many times the services of professionals are availed for the same and once the complaint is drafted by a legal mind, it would be very difficult thereafter to weed out any loopholes or other deficiencies in the same. However, that does not mean that the Court should shut its eyes and raise its hands in helplessness, saying that whether true or false, there are allegations in the First Information Report and the chargesheet papers disclose the commission of a cognizable offence. If the allegations alone as levelled, more particularly in the case like the one on hand, are to be looked into or considered then why the investigating agency thought fit to file a closure report against the other co-accused? There is no answer to this at the end of the learned counsel appearing for the State. We say so, because allegations have been levelled not only against the Appellant herein but even against his parents, brother & sister. If that be so, then why the police did not deem fit to file chargesheet against the other co-accused? It appears that even the investigating agency was convinced that the FIR was nothing but an outburst arising from a matrimonial dispute.

13. In a recent case of *Jayedepsinh Pravinsinh Chavda & Ors. Vs. State of Gujarat (SLP (Crl.) No.7957 of 2024)*, the Supreme Court

especially in respect of cases under Section 498-A has dealt with the fact and observed that it has now become fashion to get the offence of Section 498-A of IPC registered on the basis of omnibus allegations. In the said case, the observation made by the Supreme Court reads as under:-

- “10. This Court has also held in the judgment in the case of *State of A.P. v. M. Madhusudhan Rao, (2008) 15 SCC 582*), that not every kind of harassment would amount to ‘cruelty’ within the meaning of the provision, to constitute the offence punishable therein. Every case has to be analysed on its individual facts to assess whether the act of the accused persons constitutes cruelty. Further, cruelty can either be mental or physical, and it is to be seen on the facts of each case.
11. From the above understanding of the provision, it is evident that ‘cruelty’ simpliciter is not enough to constitute the offence, rather it must be done either with the intention to cause grave injury or to drive her to commit suicide or with intention to coercing her or her relatives to meet unlawful demands.”

14. This court also in case of **Abhishek Pandey @ Ramji Pandey and others Vs. State of Madhya Pradesh and Others (Criminal Revision No.521/2021)** dealing with the case of Section 498-A of IPC has quashed the charge framed against the accused and observed as under:-

- “13. The High Court in number of cases has observed that in a case where complaint is made by the wife against the husband and his family members only after filing a petition for divorce then the same is considered to be a counter-blast, just to create pressure upon the husband so that he may withdraw the case relating to decree of divorce.

It is also observed by the High Court that if the fact indicates that the wife has not raised any voice alleging demand of dowry for long and has also not approached any authority regarding her grievances, but only after filing a suit by the husband complaint is made by the wife then the said complaint is considered to be a counter-blast and prosecution is considered to be an act apparently to harass the husband and his family members and such a complaint/FIR has been quashed.

14. In **M.Cr.C. No. 8104/2017 (Tarun and Others Vs. State of M.P. and another)**, the High Court, considering the similar aspect has passed an order quashing the FIR whereby offence under Sections 498-A, 506 read with Section 34 of IPC and Section 3/4 of Dowry Prohibition Act, 1961 were registered. The High Court relying upon several decisions has observed as under:-

“7. The parameters on which the indulgence can be shown for exercising powers available under Section 482 of 'the Code' with respect to matrimonial matters have been laid down by the Apex Court in the case of Geeta Mehrotra vs State of U.P. (2012) 10 SCC 741 in the following manner :

“20. Coming to the facts of this case, when the contents of the FIR is perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names who have been included in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

21. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of G.V. Rao vs. L.H.V. Prasad & Ors. reported in (2000) 3 SCC 693 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 dispute in recent times.

Marriage is a sacred ceremony, 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 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. 7 Cr.R. No.521/2021 There are many reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate the 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 this matter was that the courts would not encourage such disputes.”

8. In another judicial pronouncement by the Hon'ble Supreme Court in the case of **Ramesh Rajagopal v. Devi Polymers (P) Ltd., (2016) 6 SCC 310**, wherein the Hon'ble Court referred to the earlier decision, observed in the following manner :-

“In *Madhavrao Jiwajirao Scindia and Ors. v. Sambhajirao Chandrojirao Angre and Ors.*, reported in (1988) 1 SCC 692, this Court observed as follows:-

“7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage.”

9. In the context of law laid down by the Hon'ble Apex Court, the plain reading of the FIR dated 03/03/2017 filed by the respondent No.2 shows that the allegations relating to commission of offence punishable under Section 498-A of IPC and Sections 3 & 4 of Dowry Prohibition Act, 1961 are vague and bereft of details as to the place and time of the incident, it also does not refer to any specific act of the applicants. According to the contents of F.I.R, the respondent No.2 was subjected to cruelty due to non-fulfillment of demand of Rs.5.00 lakhs as dowry by the applicants, however, it 8 Cr.R. No.521/2021 is undisputed that the respondent No.2 is living separately since year 2015 and hence there is no question of any harassment by the applicants as alleged by her as the relationship having got a strained, ever since December 2014. It is pertinent to note that respondent No.2 has also filed complaint against applicant no.1 in Mahila Thana, Bhopal and after conciliation, she agreed to seek divorce from applicant No.1, therefore, it is difficult to believe that there is still a demand of dowry on 03/03/2017 coupled with the criminal intimidation.

10. The applicant No.1 filed a suit of divorce against respondent No.2/complainant in Family Court, Dhar in which an exparte divorce decree has been passed vide order dated 21/03/2017. After receiving the notice of the aforesaid suit respondent No.2 has filed an application under Section 12 of Protection of Women from Domestic Violence Act, 2005 against applicant No.1 on 03/03/2017 and on the same day, she also lodged F.I.R for offence punishable under Section 498A, 506 of IPC and Section 3 & 4 of Dowry Prohibition Act, 1961, against the applicant at police station Kotwali, District Dhar, which clearly indicates that as a counter blast of divorce petition filed by the applicant No.1 against respondent No.2, she has lodged the aforesaid F.I.R against the applicants.

11. On the basis of the aforesaid discussion, it would be evident that veiled object behind the lame prosecution is apparently to harass the appellants, therefore, to secure the ends of justice and for preventing abuse of the process of criminal Court, it is a fit case in which the inherent powers of this Court under Section 482 of 'the Code' may be exercised.

12. Consequently, the application filed by the applicants, under Section 482 of 'the Code' is hereby allowed and the First Information Report bearing crime No.116/2017, registered at Police Station-Kotwali, Dhar, against the applicants for offences under Section 498-A, 506 read with Section 34 of IPC and Sections 3 & 4 of Dowry Prohibition Act, 1961 as also the chargesheet and all the

consequential proceedings flowing out of the said F.I.R stands quashed.”

15. Further, in case of **Rohit Vs. State of M.P. reported in 2019 (III) MPWN 25**, considering the similar facts as has been involved in the present case, the High Court has observed as under:-

“9. Cr.R. No.521/2021 “9. The first contention which appears to be preliminary in nature is that the documents which are brought on record regarding the complaint made by the applicant No. 1 to the Superintendent of Police, Ratlam and filing of application under Section 9 of Hindu Marriage Act, 1955 for restitution of conjugal rights are the defence documents and there is prohibition in considering such documents in order to decide the application of the instant nature. This contention can be best answered by relying on the judgment of the Supreme Court in the case of Rukmini Narvekar v. Vijaya Satardekar, (2008) 14 SCC 1, has held as under:

"21. We should also keep in mind that it is well settled that a judgment of the Court has not to be treated as Euclid's formula [vide Rajbir Singh Dalal (Dr.) v. Chaudhari Devi Lal University [(2008) 9 SCC 284 : (2008) 2 SCC (L&S) 887 : JT (2008) 8 SC 621]]. As observed by this Court in Bharat Petroleum Corpn. Ltd. v. N.R. Vairamani (2004) 8 SCC 579 : AIR 2004 SC 4778, observations of courts are neither to be read as Euclid's formula nor as provisions of the statute.

22. Thus, in our opinion, while it is true that ordinarily defence material cannot be looked into by the court while framing of the charge in view of D.N. Padhi case [(2005) 1 SCC 568 : 2005 SCC (Cri) 415] , there may be some very rare and exceptional cases where some defence material when shown to the trial court would convincingly demonstrate that the prosecution version is totally absurd or preposterous, and in such very rare cases the defence material can be looked into by the court at the time of framing of the charges or taking cognizance. In our opinion, therefore, it cannot be said as an absolute proposition that under no circumstances can the court look into the material produced by the defence at the time of framing of the charges, though this should be done in very rare cases i.e. where the defence produces some material which convincingly demonstrates that the whole prosecution case is totally absurd or totally concocted.

38. In my view, therefore, there is no scope for the accused to produce any evidence in support of the submissions made on his behalf at the stage of framing of charge and only such materials as are indicated in Section 227 CrPC can be taken into consideration by the learned Magistrate at that stage. However, in a proceeding taken therefrom under Section 482 CrPC the court is free to consider material that may be produced on behalf of the accused to 10 Cr.R. No.521/2021 arrive at a decision whether the charge as framed could be maintained. This, in my view, appears to be the intention of the legislature in wording Sections 227 and 228 the way in which they have been worded and as explained in Debendra Nath Padhi case (2005) 1 SCC 568 : 2005 SCC (Cri) 415 by the larger Bench therein to which the very same question had been referred."

10. The reproduced extracts of the said judgment clearly demonstrate that there is no prohibition in considering even the defence material while exercising the power under Section 482 of CrPC. Consequently, the first contention of the respondent about nonconsideration of the defence material is repealed.

11. The next contention which touches on the merits of the case is that the Court cannot consider the background or the circumstances under which the complaint has been lodged as it is only required to pursue the contents of the complaint lodged by the respondent No.2 and the statements recorded by the police under Section 161 of CrPC and if these materials make out the ingredient of offence charged against the applicants, there is no scope for showing any indulgence. In this context of said contention, it will be worthwhile to quote the following observation made by the Supreme Court in the case of **Ramesh Rajagopal v. Devi Polymers (P) Ltd., (2016) 6 SCC 310:-**

"15. In *Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre* [*Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre*, (1988) 1 SCC 692 : 1988 SCC (Cri) 234] , this Court observed as follows: (SCC p. 695, para 7)

"7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any

special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage."

12. The consideration of the reproduced portion clearly indicates that it is open to the Court to enquire into the circumstances and the context in which the complaint has been lodged because it is not expedient in the interest of justice to permit the prosecution to continue when the same has been filed with oblique motive or to settle the personal score.

13. From perusal of the complaint, it appears that there is no specific averments regarding the date or the occasion or any specific wording that they made for demanding dowry. The marriage was taken place only one and half year before the complaint. Earlier no complaint was made to any authority regarding demand of dowry and harassment. According to the allegation made in the complaint that on 29.08.2017 in presence of the father and maternal uncle of the respondent No.2, the applicants made demand of dowry and thrown out her from the matrimonial house but complainant did not lodged any complaint immediately after the said incident to the police. The present complaint has been made after near about 3 months of the last incident and no explanation has been disclosed about the delay in lodging the FIR. These circumstance prima facie raised doubt about the probability of truthfulness of the allegations made by the respondent No.2 against the applicants.

14. From the documents filed by the applicants, it reveals that applicant No. 1 has given notice to the respondent No.2 on 20.11.2017 regarding restitution of conjugal rights and thereafter the respondent No.2 lodged FIR against the applicants at Police Station Mahila Thana on 26.11.2017, which indicates that the respondent No.2 lodged the FIR against the applicants for demand of dowry and harassment to defeat the proceedings initiated by the applicant No.1 for restitution of conjugal rights.

15. From the reasons stated hereinabove, this court is of the view that there are no sufficient material on record to form an opinion that there is ground for presuming that the appellants/accused persons have committed the offence under the charged sections. The learned Judicial Magistrate and the learned Sessions Judge missed these crucial points while framing the charge and considering the revision application filed by the applicants under Section 397 of Cr.P.C. the veiled object behind the lame prosecution is apparently to harass the applicants, therefore, the impugned prosecution is wholly unfounded.

16. Therefore, present petitions under Section 482 of Cr.P.C. are hereby allowed and the proceedings drawn against the applicants in furtherance to the FIR bearing crime No.18/2017 for the commission of offence punishable under Section 498-A, 323/34 of I.P.C. registered at police Station-Mahila Thana, Ratlam and the consequential proceedings pending before the court of Judicial Magistrate First, Class, Ratlam in criminal case No.2215/2017 are hereby quashed.”

16. Further, in case of **Sanjay Sthapak & 4 others Vs. State of M.P. and another** passed in **M.Cr.C. No. 10044/2010**, the High Court has also dealt with a situation as is involved in the present case and also analysed the misuse of provisions of Section 498-A of IPC and also discussed the factual aspect that the complaint is made by the wife only after filing of suit by the husband for seeking decree of divorce and there is no corroborative material available then it is considered that the action by the wife is nothing but a counter-blast and as such, allegations made in the FIR are found absurd and improbable and also quashed the FIR. The High Court in the said case has observed as under:-

“5. Having considered the contentions of learned counsel for the parties and on perusal of record it is found that in the FIR there is no specific allegation with regard to the demand of the dowry and harassment and only omnibus statement have been made against all accused persons and when the matter was placed before the District Level Pariwar Paramarsh Kendra, Khandwa the statements of respondent no.2, and her brother Akash and mother Smt. Lata were recorded on 28th September, 2018 in which there is no whisper of demand of dowry and harassment on account of non fulfilment of the aforesaid demand and the dispute was related to

nonadjustment or non-cooperative attitude of the respondent no.2, which is not unusual. It also appears that on behalf of the applicant no.1 divorce petition was filed before the Family Court, Khandwa on 19/09/2018 and notice was served before 25th October, 2018 and thereafter on 28/10/2018, the FIR was lodged, this fact reflects that it is counter blast of the action taken by the applicant no.1. Apart from it, the allegation in the FIR are so absurd and inherently improbable, on the basis of which no prudent man can ever reach to the just conclusion that there is just reasonable ground for proceeding further against the applicants.

6. There is no dispute about the legal preposition that the truthfulness of the facts mentioned in the FIR and the charge sheet can't be adjudicated at this stage but if the averment is omnibus and not sufficient and not probable and do not prima facie constitute any offence and the proceeding is started to achieve the ulterior motive for wreaking vengeance, as counter blast the same can't continue and this Court under section 482 of the Cr.P.C is duty bound to set aside such proceeding.

7. The Three-Judge Bench of the Apex Court in the case of *Inder Mohan Goswami Vs. State of Uttaranchal (2007)12 SCC 1* has observed in para 24 of the said judgment, which is as under:-

"24. Inherent powers under section 482 Cr.P.C. though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the Court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the Statute."

8. Now days it is general tendency to implicate in-laws by the wife in case of demand of dowry just to take revenge on account of bitterness emerged on account of nonadjustment in the matrimonial house. The provision of section 498A of the IPC is not for that purpose. The Apex Court in *Bhaskar Lal Sharma & another vs. Monica [(2009) 10 SCC 604]* in which the Apex Court considering the judgment of the Apex Court in *Sushil Kumar Sharma vs. Union of India [(2005) 6 SCC 281]* it is held that :-

"10. The object for which Section 498-A IPC was introduced is amply reflected in the Statement of Objects and Reasons while enacting the Criminal Law (Second Amendment) Act 46 of 1983. As

clearly 14 Cr.R. No.521/2021 stated therein the increase in the number of dowry deaths is a matter of serious concern. The extent of the evil has been commented upon by the Joint Committee of the Houses to examine the work of the Dowry Prohibition Act, 1961. In some cases, cruelty of the husband and the relatives of the husband which culminate in suicide by or murder of the helpless woman concerned, constitute only a small fraction involving such cruelty. Therefore, it was proposed to amend IPC, the Code of Criminal Procedure, 1973 (in short 'CrPC') and the Evidence Act suitably to deal effectively not only with cases of dowry deaths but also cases of cruelty to married women by the husband, in-laws and relatives. The avowed object is to combat the menace of dowry death and cruelty.

.....

.....

19. The object of the provision is prevention of the dowry menace. But as has been rightly contended by the petitioner many instances have come to light where the complaints are not bona fide and have been filed with oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignominy suffered during and prior to trial. Sometimes adverse media coverage adds to the misery. The question, therefore, is what remedial measures can be taken to prevent abuse of the wellintentioned provision. Merely because the provision is constitutional and intra vires, does not give a licence to unscrupulous persons to wreak personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with. Till then the courts have to take care of the situation within the existing framework. As noted above the object is to strike at the roots of dowry menace. But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used as a shield and not as an assassin's weapon. If the cry of 'wolf' is made too often as a prank, assistance and protection may not be available when the actual 'wolf' appears. There is no question of the investigating agency and courts casually dealing with the allegations. They cannot follow any straitjacket formula in the matters relating to dowry tortures, deaths and cruelty. It cannot be lost sight of that the ultimate objective of every legal system is to arrive at the truth, punish the guilty and protect the innocent. There is no scope for any preconceived notion or view. It is strenuously argued by the petitioner that the investigating agencies and the courts start with the presumptions that the accused persons are guilty and that the

complainant is speaking the truth. This is too wide and generalised a statement. Certain statutory presumptions are drawn which again are rebuttable. It is to be noted that the role of the investigating agencies and the courts is that of a watchdog and not of a bloodhound. It should be their effort to see that an innocent person is not made to suffer on account of unfounded, baseless and malicious allegations. It is equally undisputable that 15 Cr.R. No.521/2021 in many cases no direct evidence is available and the courts have to act on circumstantial evidence. While dealing with such cases, the law laid down relating to circumstantial evidence has to be kept in view.”

9. The Apex Court in **Preeti Gupta vs. State of Jharkhand** [(2010) 7 SCC 667] held that:-

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.

10. The Apex Court in **Geeta Mehrotra and another vs. State of Uttar Pradesh** [(2012)10 SCC 741] held that :-

20. Coming to the facts of this case, when the contents of the FIR are perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names which have been included in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

11. Hon'ble the Apex court in the recent judgment, **Rajesh Sharma and ors. vs. State of U.P. And anr., passed in criminal appeal no. 1265/2017** dated 27.7.2017 as observed in para 14, as under :-

“14. Section 498-A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the statement of Objects and Reasons of the Act 46 of 1983. The expression “cruelty” in

Section 498A covers conduct which may drive the women to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand. It is a matter of serious concern that large number of cases continue to be filed under already referred to some of the statistics from the Crime Records Bureau. This 16 Cr.R. No.521/2021 Court had earlier noticed the fact that most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualized. At times such complaints lead to uncalled for harassment not only to the accused but also to the complainant. Uncalled for arrest may ruin the chances of settlement”.

12. In view of the aforesaid enunciation of law and in the facts and circumstances of the case, in view of this Court, the instant petition deserves to be allowed as in the aforesaid circumstances if the proceedings continued against the applicants, it would amount to abuse of the process of the court and would cause grave injustice to the applicants. In the circumstances, this petition is allowed and the proceedings of the Criminal Case No. 389/2018 pending before the Additional Chief Judicial Magistrate, Punasa, District Khandwa is hereby quashed.”

17. Considering the law as has been laid down by the High Court in number of cases, relying upon the view taken by the Supreme Court, I find substance in the submission made by learned counsel for the applicants that in the present case also, the FIR has been lodged by the non-applicant no.2/wife only to harass the applicant no.1 and his family members. Her statement filed along with the charge-sheet clearly reflects that she approached the police only because applicant no.1 was going to marry another lady. The allegations made against the applicants in the report lodged to the police and the statement given by her were relating to the incidents that occurred almost two years prior to the date of FIR. She did not disclose as to why at the relevant point of time, she did not make any complaint. She has also not disclosed and not stated when she started living separately from 2016, she did not lodge any report to the police but only after coming to know about filing of the suit and fact of marriage of the non-applicant no.2 with another lady, the complaint/FIR was lodged to the police. It can be easily presumed that it is nothing but an after-thought and the allegations made in the FIR are improbable and do not 17 Cr.R. No.521/2021 constitute the offence as alleged against the applicants.”

15. Thus, in view of the aforesaid enunciation of law relied upon by the learned counsel for the petitioner and making his submission that in the present case the allegations available on record do not constitute the offence of Sections 498-A and 294 of the IPC. The allegations are general in nature. Nothing specific is alleged by the complaint/respondent No.2 in any of the documents.

16. An application under Section 9 of the Hindu Marriage Act was filed by the petitioner and even the application under Section 125 of Cr.P.C. was filed but that is also silent in regard any such cruelty constituting the offence of Section 498-A of IPC. Although, it reflects that the petitioner/husband was not very cordial with respondent No.2/wife and her expectation was something else and the treatment which was being received by her, she was treating herself to be a cruelty but that does not mean it is an offence as has been observed by the Supreme Court in case of **Jayedeesinh Pravinsinh Chavda** (supra).

17. The Supreme Court has clearly observed and even otherwise for registering an offence or initiating prosecution, there must be some specific allegation, but only on the basis of general allegations offence cannot be registered and just to satisfy the ego of a particular person, the prosecution cannot be launched.

18. Shri Abhishek Dilraj, at the same time, has opposed the submissions advanced by learned counsel for the petitioner and submitted that harassing respondent No.2 continuously, living separately with her child claiming maintenance under Section 125 of CrPC and not making specific allegation about demand of dowry does not mean that the offence of Section 498-A of IPC is not made out. He has submitted

that only filing an application under Section 9 of Hindu Marriage Act does not mean that all allegations are false and just to avoid that situation, since wife is not willing to reside with the husband, the FIR has been registered. He has submitted that all these facts are to be determined and can be ascertained during trial and as such, power provided under Section 482 of Cr.P.C. cannot be exercised in this case. Relying upon the judgment of **K.D. Sharma** (supra), he has submitted that in the said case the Supreme Court has observed that a person who has not approached the court with clean hands is not entitled to get any relief and equity from the court. The observation made by the Supreme Court in the said case reads as under:-

“**34.** The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the writ court must come with clean hands, put forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim.”

19. However, in the opinion of this court, it is not a case in which the petitioner did not approach this court with clean hands because in the petition he has not disclosed about the application filed under Section 125 of CrPC but that suppression is not so fatal and has no significance so that this petition cannot be entertained. The Supreme Court in case **Aluri Venkata Ramana** (supra) has observed as to how the offence under Section 498-A of IPC can be made out, which reads as under:-

“17. Therefore, upon careful examination of the relevant provisions of Section 498A IPC, the precedents cited, and the factual matrix of the case, it is apparent that the High Court’s decision to quash the criminal proceedings against Accused Nos.1 and 2 was flawed. Section 498A IPC recognizes two distinct forms of cruelty: one involving physical or mental harm in clause (a) and the other involving harassment linked to unlawful demands for property or valuable security in clause (b). These two provisions are to be read disjunctively, meaning that the presence of a dowry demand is not a prerequisite for establishing cruelty under the Section. The allegation made by the Appellant, which detail instances of physical abuse and harassment, fall within the scope of “cruelty” as defined under clause (a) of Section 498A IPC. The absence of an explicit dowry demand does not negate the applicability of the provision where acts of physical violence and mental distress have been demonstrated. The core of the offence under Section 498 A IPC lies in the act of cruelty and does not purely revolve around the demand for dowry. Therefore, the High Court erred in quashing all criminal proceedings against Accused Nos.1 and 2 and the trial ought to have been allowed to be carried out.”

20. Shri Dilraj has submitted that harassment physical or mental linked with unlawful demand for property or valuable security and that dowry demand is not a prerequisite for establishing cruelty under Section 498-A of IPC. He has submitted that even the offence even in absence of explicit dowry demand does not negate the applicability of provisions where acts of physical violence and mental distress have been demonstrated and allegation about cruelty does not require to revolve around the demand of dowry and therefore, Shri Dilraj has submitted that though there is no specific allegation in regard to demand of dowry but at the same time, the allegation of cruelty has been consistently maintained by respondent No.2, therefore, it is not a case in

which FIR registered under Section 498-A of IPC can be quashed.

21. Looking to the facts and circumstances of the case and in view of the observation made by the Supreme Court, though there are some allegations made by the wife about mental and physical harassment without any specific dates of incidents, but she did not disclose that any specific demand of dowry was made. It is also not a case in which immediately after leaving the house of the husband, she made a complaint to the police rather the FIR got registered after almost 7-8 months. When application of Section 9 of the Hindu Marriage Act was filed, proceeding of Section 125 of Cr.P.C. was pending, then making a complaint for registration of offence under Section 498-A and 294 of IPC appears to be improper on the part of the wife. Each and every quarrel between the husband and wife does not amount to cruelty so as to constitute the offence of 498-A of IPC. The provision very clearly provides as to when cruelty would be defined and sufficient to form the offence of 498-A of IPC but there is no material available with the police to constitute the offence of 498-A of IPC. Incordial relations between the husband and wife, quarrel between them are not sufficient to constitute the offence. If on the basis of general and omnibus allegations the offence is registered that too against a government officer which could ruin his life is not proper because it would also finish the possibility of reconciliation. The proceeding of Section 9 is also pending between the parties.

22. Thus, in view of the aforesaid and looking to the facts and circumstances of the case so also the view expressed by the Supreme Court and also by this court, I am also of the opinion that in the present case, there is no sufficient material available which *prima facie*

sufficient to constitute the offence of 498-A and 294 of IPC. Therefore, the petition is allowed. The FIR registered against the petitioner on 16.08.2024 vide Crime No.29/2024 at Police Station Mahila Thana Satna, District Satna, under Sections 498-A and 294 of IPC is accordingly quashed.

23. *Ex consequentia*, the petition stands **allowed** and **disposed of**.

(SANJAY DWIVEDI)
JUDGE

ac/-