



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

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 18th OF SEPTEMBER, 2024

WRIT PETITION No. 26391 of 2024

SUMAN MISHRA AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Pravesh Naveriya – Advocate for the petitioners.

Shri Mohan Sausarkar – Government Advocate for the respondents/State.

ORDER

This petition under Article 226 of Constitution of India has been filed seeking following reliefs:

- “i. Issue a writ in the nature of Certiorari to set aside/quash the impugned FIR dated 22/08/2023 registered by Respondent no.2 at Mahila Police Station Chatarpur, District Chatarpur, M.P. bearing FIR no.0028/2023 i.e. Annexure P/5, and further actions/proceedings taken in furtherance of the same.
- ii. To allow the cost of case in favour of petitioner.
- iii. Any other suitable relief deemed fit in the facts and circumstances of the case may also kindly be granted together with the cost of this petition.”

2. It is submitted by counsel for petitioners that petitioner No.1 is father-in-law, petitioner No.2 is mother-in-law and petitioner No.3 is unmarried sister-in-law of respondent No.3. The brother of respondent



No.3 had filed an application under Section 97 of Cr.P.C. before SDM, Chhatarpur for her production on the ground that she is being harassed by her husband and he is assaulting her to an extent which has created a danger to her life and accordingly, it was prayed that search warrant may be issued so that the life of the complainant/respondent No.3 may be saved. Accordingly, respondent No.3 appeared before SDM, Chhatarpur and made a statement that she was being harassed by her husband on the ground of demand of dowry and every day he used to beat her and abuse her filthily. Somehow she managed to send a message to her brother, as a result the proceedings under Sections 97 were instituted by her brother and she has come to the Court of SDM, Chhatarpur under the Police custody. It was further expressed by respondent No.3 that she does not wish to stay with her husband and wants to go back to her parents' home. It is submitted that proceedings under Section 97 of Cr.P.C. were concluded by order dated 18.08.2023 with an observation that since respondent No.3 is a major woman therefore, she is free to live at any place of her choice. Thereafter, respondent No.3 lodged an FIR on 22.08.2023 against the petitioners and her husband for offence under Sections 498-A, 323, 294, 506, 34 of IPC and under Section 3/4 of Dowry Prohibition Act. It is submitted by counsel for petitioners that when respondent No.3 appeared before SDM, Chhatarpur she did not allege against the petitioners. Even otherwise, general and vague allegations have been made against the petitioners which are not sufficient for their prosecution. It is further submitted that petitioner No.3, who is unmarried sister-in-law of respondent No.3 was residing in Bhopal, which is evident from lease agreement (Annexure P/7).



3. Considered the submissions made by counsel for petitioners.
4. It is well established principle of law that FIR is not an encyclopedia. As per the allegations made in the FIR, it is clear that respondent No.3 got married to Sourabh Mishra on 13.05.2021. It is alleged that a cash amount of Rs.8 Lakh, gold and silver ornaments as well as all other house-hold articles were given in dowry. For about one month, she was kept properly by the petitioners and her husband and thereafter petitioners and her husband started harassing her physically and mentally on the ground of bringing less dowry. They used to pickup quarrel on trivial issues and used to beat her after abusing her filthily. They were constantly alleging that her mother, brother and sister have not given sufficient dowry and were constantly demanding an amount of Rs.5 Lakh and a four wheeler. The said fact was being repeatedly informed to her mother, brother and elder sister. On 15.08.2023 when she woke up and was having a cup of tea, then her husband came and started scolding that why she has not prepared the tea for him. When she said that she would prepare a tea, then the husband of respondent No.3 started abusing her filthily and scolded that she is acting as per the dictation of her parents and started beating her by fists and blows. At that time, the petitioners also came there and scolded that her parents have not given anything in the dowry. Even respondent No.3 could not conceive. The petitioners and her husband also threatened that in case if the factum of assault is informed to anybody, then she would be killed. It was alleged in the FIR that because of beating given by the accused persons she is having pain in her head, nose, ear etc. Thereafter, she informed her mother, brother and sister. Accordingly, her brother made



a complaint on which the Police rescued her from her matrimonial home on 18.08.2023.

5. If the allegations made against the petitioners are considered, then it is clear that they are specific, clear and not general in nature. There is specific allegation of demand of Rs.5 Lakh and a four wheeler. There are specific allegations that on account of non-fulfillment of demand of dowry, the petitioners used to beat the respondent No.3. Although the counsel for petitioners tried to submit that in case if the statement of respondent No.3, which she had given to SDM, Chhatarpur is read alongwith the FIR, then it is clear that there is an improvement but this Court has failed to convince itself to compare the statement of respondent No.3, which she had given in the Court of SDM, Chhatarpur. The subject matter of proceedings under Section 97 of Cr.P.C. was as to whether the respondent No.3 was in illegal detention or not and therefore, it was not expected that the respondent No.3 should have spoken elaborately with regard to the cruelty committed by her each and every in-law. The investigation is at the initial stage.

6. 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.”

7. Therefore, passing of taunts by the parents-in-law is also sufficient for their prosecution under Section 498-A of IPC and other provisions of IPC.

8. So far as the plea of alibi taken by petitioner No.3 is concerned, petitioner No.3 has relied upon a lease agreement executed between one Sunil Malviya and petitioner No.3, according to which petitioner No.3 had taken a Flat of 2 BHK on lease for a period of 11 months situated at Bhopal. The landlord is the resident of Shajapur, whereas petitioner No.3 is the resident of Chhatarpur. From the other documents, which have been placed on record, it is clear that petitioner No.3 completed her Post-Graduation course from Gajara Raja Medical College, Gwalior on 28th July, 2023 and immediately thereafter on the next day i.e. on 29th July, 2023, petitioner No.3 is alleged to have taken a 2 BHK Flat on lease for a period of 11 months. Why petitioner No.3 went to Bhopal instead of coming back to her parental home could not be explained by



the petitioners. Thus, it is clear that the lease agreement appears to be a concocted document (this observation should not be taken as a final observation and it will be subject to the evidence, which will be led by the petitioners during the course of trial).

9. Considering the totality of the facts and circumstances of the case, this Court is of considered opinion that there are specific allegations against each of the petitioners warranting their prosecution for the offences registered against them.

10. As no case is made out warranting interference, the petition fails and is hereby **dismissed**.

(G.S. AHLUWALIA)
JUDGE

SR*