



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 22<sup>ND</sup> DAY OF NOVEMBER, 2024**

**BEFORE**

**THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

**CRIMINAL PETITION NO. 7090 OF 2023**

**BETWEEN:**

1. SMT. SUDHA BAI  
W/O LATE VINAYAKA RAO NIMBALKAR,  
AGED ABOUT 54 YEARS,  
R/AT NO.50/1, 2ND MAIN,  
MOTHI NAGAR,  
NEAR ADHI KABIR ASHRAM,  
R.T.NAGAR,  
BANGALORE - 32.

2. SRI. C. SATHISH GHATKE,  
S/O CHANDRA SENA RAO GHATKE,  
AGED ABOUT 38 YEARS,

3. SMT. RENUKA YALLUKAR,  
W/O SATHISH GHATKE,  
AGED ABOUT 36 YEARS,

PETITIONER NOS.2 & 3 ARE  
R/AT 3RD FLOOR,  
NO.26, 2ND MAIN  
MOTHI NAGAR,  
NEAR ADHI KABIR ASHRAM,  
R.T.NAGAR,  
BANGALORE - 32

Digitally signed  
by NAGAVENI  
Location: HIGH  
COURT OF  
KARNATAKA

...PETITIONERS

(BY SRI. SUBRAMANYA H.V., ADVOCATE)



**AND:**

1. STATE OF KARNATAKA  
BY .R.T NAGAR POLICE STATION,  
REPRESENTED BY  
STATE PUBLIC PROSECUTOR,  
HIGH COURT OF KARNATAKA,  
BANGALORE - 560001.
  
2. SMT. NIKHITHA. A.  
W/O SANTHOSH GHATKE,  
AGED ABOUT 28 YEARS,  
R/AT NO. 56/57  
ARCHANA BUILDING,  
RATHNAMMA LAYOUT, 2ND CROSS,  
SULTHANPALYA,  
R.T. NAGAR,  
BANGALORE - 32

...RESPONDENTS

(BY SMT. RASHMI PATIL, HCGP FOR R1;  
SRI. H.S. DHANARAJ, ADVOCATE)

THIS CRL.P. IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE FIR AND COMPLIANT REGISTERED AGAINST THESE PETITIONERS IN CR.NO.202/2023 OF R.T.NAGAR POLICE STATION FOR THE OFFENCE P/U/S.498-A OF IPC AND SEC.3 AND 4 OF DP ACT PENDING ON THE FILE OF THE 32<sup>ND</sup> ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT BENGALURU.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



CORAM: **HON'BLE MR JUSTICE M.NAGAPRASANNA**

**ORAL ORDER**

The petitioners - accused Nos.4, 5 and 6 are at the doors of this court calling in question registration of a crime in Crime No.202/2023 registered for offences punishable under Section 498A of the IPC and under Sections 3 and 4 of the Dowry Prohibition Act, 1961 (hereinafter referred to as 'the Act' for short).

2. Heard Sri. Subramanya H.V., learned counsel appearing for the petitioners, Smt. Rashmi Patil, learned HCGP appearing for respondent No.1 and Sri. H.S. Dhanaraj, learned counsel appearing for respondent No.2.

3. Before embarking upon the consideration of the issue in the *lis*, I deem it appropriate to notice the relationship between the parties to the *lis*. The second respondent is the complainant, wife of one Santhosh Ghatke - accused No.1, who is not before this Court in these proceedings.



In these proceedings, the first petitioner is accused No.6, sister of mother-in-law. The second petitioner - accused No.4 is brother- in-law. The third petitioner is the wife of the second petitioner. Accused No.1 and the complainant get married on 15.10.2021. It transpires that the relationship between the husband and the wife floundered. On floundering of the relationship, the wife has registered several proceedings; one of which is the impugned crime in Crime No.202 of 2023 against accused Nos.1 to 6. Accused Nos.1, 2 and 3 are the husband, mother-in-law and father-in-law, who are not petitioners in these proceedings. The present petitioners are the members of the family of the husband - accused No.1. The registration of the crime has driven these petitioners to this Court in the subject petition.

4. The learned counsel appearing for the petitioners submits that the petitioners' role in the alleged episode of crime is only when the petitioners interfere to solve or resolve the dispute between the husband and the wife by calling them for conciliation. Calling them for conciliation is termed to be a crime against them for offences punishable under



Section 498A of the IPC or Sections 3 and 4 of the Act. The learned counsel would submit that if further investigation in the case at hand is permitted to continue, it would become an abuse of the process of the law and run foul of plethora of judgments rendered by the Apex Court.

5. The learned counsel appearing for the complainant would vehemently refute the submissions to contend that the acts of the petitioners - accused Nos.4, 5 and 6 would clearly fit in the phrase 'mental harassment' caused to the wife, as these were the petitioners who called for conciliation, but, accused Nos.1, 2 and 3, who live in the matrimonial house did not open the door for the wife for talks of conciliation and the wife was made to call the police and face humiliation in front of the family members of the wife. This according to the learned counsel appearing to respondent No.2 - the complainant would amount to mental harassment and such mental harassment will amount to an offence under Section 498A of the IPC and therefore, investigation should be permitted to be continued in the case at hand.



6. The learned additional HCGP would also toe the lines of the learned counsel appearing for the complainant in seeking dismissal of the petition for the reason that the investigation is yet to conclude.

7. I have given my anxious consideration to the respective submissions made by the learned counsel and have perused the material on record.

8. The afore-narrated facts are not in dispute. The relationship between the parties to the *lis* is as observed hereinabove. The entire issue has now triggered from the registration of the complaint. Therefore, I deem it appropriate to notice the complaint. The complaint reads as follows:

"ರವರಿಗೆ

ಪೊಲೀಸ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್  
ಬೆಂಗಳೂರು.

ಇಂದ

ನಿಖಿತ ಎ. ಕೋಂ ಸಂತೋಷ್ ಘಟ್ಟೆ  
28 ವರ್ಷ  
ನಂ. 56/57, ಅರ್ಚನ ಬಿಲ್ಡಿಂಗ್  
ರತ್ನಮ್ಮ ಲೇಔಟ್, 2ನೇ ಕ್ರಾಸ್  
ಮನೋರಾಯನಪಾಳ್ಯ

ವಿಷಯ: ನನ್ನ ಗಂಡ ಸಂತೋಷ್ ಹಾಗೂ ಅತ್ತೆ ಮಾವ ಭಾವಂದಿರು



ಭಾವನ ಹೆಂಡತಿಯರ ವಿರುದ್ಧ ದೂರು.

ನಾನು ಮೇಲ್ಕಂಡ ವಿಳಾಸದಲ್ಲಿ ಸುಮಾರು ಒಂದು ವರ್ಷ ವಾಸವಾಗಿದ್ದುಕೊಂಡು ನಾನು ಮದುವೆಯ ಸಾಲ ತೀರುವಳಿಗಾಗಿ 'System Test Engineer" ಯಾಗಿ ಕೆಲಸ ಮಾಡುತ್ತಿದ್ದೇನೆ. ನನಗೆ ನಮ್ಮ ಮನೆಯವರು 2021 ರಲ್ಲಿ ಹಿಂದು ಸಂಪ್ರದಾಯದ ಪ್ರಕಾರ ಸಂತೋಷ್ ಘಟ್ಟಿ ಎಂಬುವವರ ಜೊತೆ ಗುರು ಹಿರಿಯರ ಸುಮ್ಮಖಿದಲಿ ಮದುವೆ ಮಾಡಿಕೊಟ್ಟಿರುತ್ತಾರೆ. ನಾನು ಮದುವೆಯಾದ ದಿನದಿಂದಲೂ ನನ್ನ ಗಂಡನ ನನಗೆ ಮಾನಸಿಕ ಕಿರುಕುಳ ಹಾಗೂ ದೈಹಿಕ ಹಿಂಸೆ ನೀಡುತ್ತಿದ್ದು ಈ ವಿಚಾರವಾಗಿ ನಾನು ನನ್ನ ಹಿರಿಯರಿಗೆ ತಿಳಿಸಿದ್ದು ಅವರು ಸಹ ಬಂದು ಹಲವಾರು ಬಾರಿ ತಿಳುವಳಿಕೆ ಹೇಳಿದರೂ ಕೇಳುವುದಿಲ್ಲ. ಮತ್ತೆ ನನ್ನ ಗಂಡ ಸಂತೋಷ್ ಘಟ್ಟಿ ಹಾಗೂ ಅತ್ತೆಯವರಾದ ಶೋಬಬಾಯಿ ಘಟ್ಟಿ, ಮಾವ ಚಂದ್ರಸೇನ ಘಟ್ಟಿ ರವರು ನನಗೆ ನಮ್ಮ ತವರು ಮನೆಯಿಂದ ಹತ್ತು ಲಕ್ಷ ಹಣ ವರದಕ್ಷಿಣೆಯಾಗಿ ತೆಗೆದುಕೊಂಡು ಬಾ ಎಂದು ಯಾವಾಗಲೂ ಹೀಯಾಳಿಸಿ ಬೈಯುತ್ತಾರೆ. ಮದುವೆ ಸಮಯದಲ್ಲಿ ನಮ್ಮ ತಂದೆ ತಾಯಿರವರು 90 ಗ್ರಾಮ್ ಚಿನ್ನ ಹಾಗೂ ಅವರ ಬಟ್ಟೆಗಾಗಿ ರೂ 50 ಸಾವಿರ ನಗದು ಬೆಳ್ಳಿ ಸಾಮಗ್ರಿಗಳು ಸಹ ಕೊಟ್ಟಿರುತ್ತೇನೆ. ಆದರೂ ಸಹ ನನಗೆ ವರದಕ್ಷಿಣೆ ತರುವಂತೆ ಇವರೆಲ್ಲರೂ ಕಿರುಕುಳ ನೀಡುತ್ತಿದ್ದಾರೆ.

ಈ ದಿನ 26-06-2023 ರಂದು ನಾನು ಸುಮಾರು ಮಧ್ಯಾಹ್ನ 2.00 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ನನ್ನ ಗಂಡನೊಂದಿಗೆ ಸಂಸಾರಕ್ಕೆ ಮನೆಗೆ ಹೋದಾಗ ನನ್ನನ್ನು ಹೊರದಬ್ಬಿ ತಕ್ಷಣ ಬಾಗಿಲು ಹಾಕಿಕೊಂಡು ಬಾಗಿಲು ತೆಗೆಯದೆ, ಮನೆಯಲ್ಲಿಯೇ ಭಾವ ಸತೀಶ್ ಘಟ್ಟಿ ಅವರ ಹೆಂಡತಿ ರೇಣು ಮತ್ತು ಸಂತೋಷ್‌ರವರ ಚಿಕ್ಕಮ್ಮ ಸುಧಾ ಬಾಗಿಲು ತೆಗೆಯದೆ ಮನೆಯಲ್ಲಿ ಇದ್ದರು. ಸುಮಾರು ಅರ್ಧ ಗಂಟೆ ಕಾದನಂತರ ನಾನು 112 ಗೆ ಫೋನ್ ಮಾಡಿ ಹೊಯ್ಸಳ ಸಿಬ್ಬಂದಿ ಬಂದು ಮನೆಯಲ್ಲಿ ಇದ್ದವರನ್ನು ಕರೆದರೂ ಸಹ ಬಾಗಿಲು ತೆಗೆಯದೆ ನನ್ನನ್ನು ಹೊರದಬ್ಬಿರುತ್ತಾರೆ. ಆದ್ದರಿಂದ ನನಗೆ ವರದಕ್ಷಿಣೆ ತೆಗೆದುಕೊಂಡು ಬರುವಂತೆ ಮಾನಸಿಕ ಹಾಗೂ ದೈಹಿಕ ಹಿಂಸೆ ನೀಡುತ್ತಿರುವ ಗಂಡ, ಅತ್ತೆ, ಮಾವ, ಭಾವಂದಿರು ಹಾಗೂ ಭಾವನ ಹೆಂಡತಿಯವರ ಮೇಲೆ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳುವಂತೆ ತಮ್ಮಲ್ಲಿ ವಿನಂತಿಸಿಕೊಳ್ಳುತ್ತೇನೆ.

ದಿನಾಂಕ 27-6-2023 ರಂದು ಸಮಯ 12.15 ಗಂಟೆಗೆ ಪಿಯಾರುದುದಾರರು ನೀಡಿದ ದೂರನ್ನು ಸ್ವೀಕರಿಸಿ ತಾಣ ಮೊಕದ್ದಮೆ ಸಂಖ್ಯೆ 202/2023 ಕಲಂ 498ಎ ಐಪಿಸಿ ಮತ್ತು 3 ಮತ್ತು 4 ಡಿಪಿ ಯಾಕ್ಟ್ ರೀತ್ಯ ಪ್ರಕರಣ ದಾಖಲಿಸಿರುತ್ತೇನೆ. ಹಾಗೂ ಹಿರಿಯ ಅಧಿಕಾರಿಗಳಿಗೆ ಮತ್ತು ಮಾನ್ಯ ಘನ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಪ್ರ.ವ. ವರದಿಯನ್ನು ನಿವೇಸಿದಿರುತ್ತೇನೆ."

9. The petitioners being other members of the family is a matter of record, as is described by the complainant in the complaint itself. The role of the petitioners are also captured in a particular paragraph in the complaint itself. The role is that



they called for conciliation and did not permit conciliation to happen between the husband and the wife and have made certain allegations against the wife. Barring this, there is no other allegation that would touch upon the ingredients of Section 498A of the IPC particularly against accused Nos.4, 5 and 6, as submitted by the learned counsel appearing for the complainant. The allegations may have to be answered by accuse Nos.1, 2 and 3, but, I do not find any ingredient of Section 498A of the IPC or Sections 3 and 4 of the Act. The petitioners are other members of the family. Permitting investigation even in the case at hand against these petitioners would run foul of the judgment of the Apex Court in the case of ***Kahkashan Kausar @ Sonam and others vs. State of Bihar and others***, wherein it has held as follows:

**"Issue involved**

**10. Having perused the relevant facts and contentions made by the appellants and respondents, in our considered opinion, the foremost issue which requires determination in the instant case is whether allegations made against the appellant in-laws are in the nature of general omnibus allegations and therefore liable to be quashed?**

**11. Before we delve into greater detail on the nature and content of allegations made, it becomes pertinent to mention that incorporation of Section 498-AIPC was aimed at preventing cruelty**





**committed upon a woman by her husband and her in-laws, by facilitating rapid State intervention. However, it is equally true, that 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-AIPC as instruments to settle personal scores against the husband and his relatives.**

**12.** This Court in its judgment in *Rajesh Sharma v. State of U.P.* [*Rajesh Sharma v. State of U.P.*, (2018) 10 SCC 472; (2019) 1 SCC (Cri) 301] , has observed : (SCC pp. 478-79, para 14)

“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 Act 46 of 1983. The expression “cruelty” in Section 498-A covers conduct which may drive the woman 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. [Explanation to Section 498-A.] It is a matter of serious concern that large number of cases continue to be filed under Section 498-A alleging harassment of married women. We have already referred to some of the statistics from the Crime Records Bureau. This 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 visualised. 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.”

**13.** Previously, in the landmark judgment of this Court in *Arnesh Kumar v. State of Bihar* [*Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273; (2014) 3 SCC (Cri) 449] , it was also observed : (SCC p. 276, para 4)



"4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-AIPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-AIPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In quite a number of cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested."

**14.** Further in *Preeti Gupta v. State of Jharkhand* [*Preeti Gupta v. State of Jharkhand*, (2010) 7 SCC 667 : (2010) 3 SCC (Cri) 473] , it has also been observed : (SCC pp. 676-77, paras 32-36)

"32. It is a matter of common experience that most of these complaints under Section 498-AIPC 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.

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



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

35. 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 the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the 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 scrutinised with great care and circumspection.

36. 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 an amicable settlement altogether. The process of suffering is extremely long and painful.”

**15.** In *Geeta Mehrotra v. State of U.P.* [*Geeta Mehrotra v. State of U.P.*, (2012) 10 SCC 741: (2013) 1 SCC (Civ) 212 : (2013) 1 SCC (Cri) 120] it was observed : (SCC p. 749, para 21)

“21. It would be relevant at this stage to take note of an apt observation of this Court recorded in *G.V. Rao v. L.H.V. Prasad* [*G.V. Rao v. L.H.V. Prasad*, (2000) 3 SCC 693 : 2000 SCC (Cri) 733] 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, the 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 commission of 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. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their 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."

**16.** Recently, in K. Subba Rao v. State of Telangana [K. Subba Rao v. State of Telangana, (2018) 14 SCC 452 : (2019) 1 SCC (Cri) 605] , it was also observed that : (SCC p. 454, para 6)

"6. ... The courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out."

**17. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-AIPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said**



**judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.**

**18.** Coming to the facts of this case, 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. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.

**19.** Furthermore, regarding similar allegations of harassment and demand for car as dowry made in a previous FIR Respondent 1 i.e. the State of Bihar, contends that the present FIR pertained to offences committed in the year 2019, after assurance was given by the husband Md. Ikram before the learned Principal Judge, Purnea, to not harass the respondent wife herein for dowry, and treat her properly. However, despite the assurances, all accused continued their demands and harassment. It is thereby contended that the acts constitute a fresh cause of action and therefore the FIR in question herein dated 1-4-2019, is distinct and independent, and cannot be termed as a repetition of an earlier FIR dated 11-12-2017.



**20. Here it must be borne in mind that although the two FIRs may constitute two independent instances, based on separate transactions, the present complaint fails to establish specific allegations against the in-laws of the respondent wife. Allowing prosecution in the absence of clear allegations against the appellant in-laws would simply result in an abuse of the process of law.**

**21. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the appellant-accused, 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."**

(Emphasis supplied)

which is subsequently followed by the Apex Court in the case of ***Kailashben Mahendrabhai Patel v. State of Maharashtra***<sup>1</sup>, wherein it has held as follows:

**"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

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<sup>1</sup> **2024 SCC OnLine SC 2621**



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.*<sup>4</sup>, this court observed that:

"16... the respondent alleged commission of offences under Sections 323, 384, 406, 423, 467, 468, 420 and 120B, IP C 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*<sup>5</sup>, 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.<sup>6</sup> 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*<sup>7</sup> 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".

15. We are not referring to all the findings of the Court dismissing the domestic violence complaint. It is sufficient to note that identical allegations were examined in detail, subjected to strict scrutiny, and rejected as being false and untenable. This case is yet another instance of abuse of criminal process and it would not be fair and just to subject the appellants to the entire criminal law process. In *Achin Gupta v. State of Haryana*<sup>8</sup>, this court observed that:

"20. It is now well settled that the power under Section 482 of the Cr. P.C. has to be exercised sparingly, carefully and with caution, only where such exercise is justified by the tests laid down in the Section itself. It is also well settled that Section 482 of the Cr. P.C. does not confer any new power on the High Court but only saves the inherent power, which the Court possessed before the enactment of the Criminal Procedure Code. There are three circumstances under which the inherent jurisdiction may be exercised, namely (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of Court, and iii) to otherwise secure the ends of justice.

21. ...It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers, the court would be justified to quash any proceeding if it finds that the initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.



36. For the foregoing reasons, we have reached to the conclusion that if the criminal proceedings are allowed to continue against the Appellant, the same will be nothing short of abuse of process of law & travesty of justice. This is a fit case wherein, the High Court should have exercised its inherent power under Section 482 of the Cr. P.C. for the purpose of quashing the criminal proceedings.”

**16.** It is submitted on behalf of the respondent that after investigation, charge sheet has already been filed and that this Court should not interfere with the judgment of the High Court. The chargesheet is on record and we have examined it carefully, it simply reproduces all the wordings of the complaint. There is nothing new even after investigation, the allegations made in the FIR/complaint are exactly the allegations in the charge sheet. Even otherwise, the position of law is well entrenched. There is no prohibition against quashing of the criminal proceedings even after the charge sheet has been filed. In *Anand Kumar Mohatta v. State (NCT of Delhi)*<sup>9</sup>.

“14. First, we would like to deal with the submission of the learned Senior Counsel for Respondent 2 that once the charge-sheet is filed, petition for quashing of FIR is untenable. We do not see any merit in this submission, keeping in mind the position of this Court in *Joseph Salvaraj A. v. State of Gujarat*...

15. Even otherwise it must be remembered that the provision invoked by the accused before the High Court is Section 482 CrPC and that this Court is hearing an appeal from an order under Section 482 CrPC....

16. There is nothing in the words of this section which restricts the exercise of the power of the Court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It is settled principle of law that the High Court can exercise jurisdiction under



Section 482 CrPC even when the discharge application is pending with the trial court. Indeed, it would be a travesty to hold that proceedings initiated against a person can be interfered with at the stage of FIR but not if it has advanced and the allegations have materialised into a charge-sheet. On the contrary it could be said that the abuse of process caused by FIR stands aggravated if the FIR has taken the form of a charge-sheet after investigation. The power is undoubtedly conferred to prevent abuse of process of power of any court."

Similar view is taken by this Court in Joseph Salvaraj A. v. State of Gujarat<sup>10</sup>; A.M. Mohan v. State<sup>11</sup>; Mamta Shailesh Chandra v. State of Uttarakhand<sup>12</sup>.

**17. Having considered the matter in detail, we are of the opinion that none of the ingredients of Sections 498A, 323, 504, 506 read with Section 34 IPC are made out. We have no hesitation in arriving at the conclusion that if the criminal proceedings are allowed to continue against the appellants, the same will be nothing short of abuse of process of law and travesty of justice. Though the appellants have also argued on the ground that Jalna Police Station and the Chief Judicial Magistrate, Jalna did not have jurisdiction, we are not inclined to examine that position in view of our finding that the Complaint/FIR and the chargesheet cannot be sustained."**

*(emphasis supplied)*

10. In the light of the facts narrated hereinabove and the elucidation of law by the Apex Court in the afore-quoted judgments, if further investigation is permitted to be continued



as observed hereinabove, it would run foul of the law so laid down, as the petitioners being accused Nos.4, 5 and 6, the brother-in-law and brother-in-law's wife or the mother-in-law's sister, cannot be hauled into these proceedings.

11. For the aforesaid reasons, the following:

**ORDER**

- (i) Criminal Petition is allowed.
- (ii) Proceedings pending in Crime No.202/2023 stand quashed, *qua* the petitioners.
- (iii) The observations made in the course of this order is only for the purpose of consideration of the case of the petitioners under Section 482 of the Cr.P.C., and the same shall not bind or influence conduct of investigation against any other accused.

**Sd/-  
(M.NAGAPRASANNA)  
JUDGE**

SJK  
List No.: 1 Sl No.: 19