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MCRC-23881-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

MISC. CRIMINAL CASE No. 23881 of 2024***KRISHNAGOPAL SHARMA AND OTHERS****Versus****THE STATE OF MADHYA PRADESH AND OTHERS***

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Appearance:

Shri Tapendra Sharma - Advocate for petitioners.

Shri Brijesh Kumar Tyagi - Public Public Prosecutor for
respondent/State.

Shri Madan Mohan Tripathi- Advocate for respondent [R-2].
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Reserved on : 17.03.2026

Pronounced on : 25.03.2026

ORDER

The present petition under Section 482 of the Code of Criminal Procedure has been preferred by the petitioners seeking quashment of the FIR, charge-sheet, and all consequential proceedings arising out of Crime No. 21 of 2023 registered at Mahila Police Thana, District Bhind, for offences punishable under Sections 377, 354, 498-A, 323, 294, 506, 34 of the Indian Penal Code, Sections 3/4 of the Dowry Prohibition Act, and Section 30 of the Arms Act.

2. As per the prosecution case, the complainant was lawfully married to petitioner No.1, Krishna Gopal Sharma, son of petitioner No.2, Surendra Sharma, at Bhind in accordance with Hindu rites and customs. At the time of marriage, the complainant's parents, within their financial means, provided



sufficient dowry articles, including Rs.4,00,000/- in cash, gold ornaments (two gold rings, chain, and other jewellery), and various household articles such as a sofa set, double bed, washing machine, refrigerator, dressing table, sewing machine, LCD television, Godrej almirah, mixer, juicer, and other items. Despite this, the accused persons remained dissatisfied and persistently alleged that the marriage had been settled for Rs.10,00,000/-, asserting that only Rs.4,00,000/- had been paid and demanded the remaining Rs.6,00,000/- along with a Bullet motorcycle. It is alleged that the complainant was continuously subjected to cruelty and harassment in connection with the said unlawful demands. Upon informing her parents, they expressed their inability to fulfill such demands due to their poor financial condition. The complainant has further alleged that her father-in-law, Surendra Sharma, subjected her to inappropriate conduct and harassment, including coercing her to accept him as a husband. When the complainant reported such conduct to her mother-in-law, Shashi, the latter not only dismissed her complaint but also supported the accused. Additionally, the husband (petitioner No.1) is alleged to have subjected the complainant to physical and sexual abuse, including unnatural acts causing severe pain, accompanied by threats and assault, with repeated assertions that such treatment would continue until the dowry demands were fulfilled. It is further alleged that on 11.04.2023, when the complainant was suffering from viral fever and requested medical treatment, the accused persons refused to provide care. Instead, her father-in-law allegedly threatened her with a licensed firearm, stating that he would kill her. Thereafter, her husband



dispossessed her of all her stridhan and forcibly abandoned her at her parental home situated at Sita Nagar, B Block, leaving her with only the clothes she was wearing. Despite repeated efforts by the complainant's father to amicably resolve the matter, the accused persons remained adamant and categorically refused to take her back unless their unlawful demands were met. They also allegedly extended threats of dire consequences, including death, in case the complainant approached the police. The husband further threatened to divorce her and remarry if the demands remained unmet. These incidents are stated to have occurred in the presence of witnesses, namely Vinod Pathak and Manju Rajawat. On the basis of the aforesaid allegations, it is submitted that the accused persons, namely the husband, father-in-law, mother-in-law, and sister-in-law, in furtherance of their common intention, subjected the complainant to cruelty, harassment, and unlawful demands for dowry, thereby committing cognizable offences. Consequently, the impugned FIR has been registered against them.

3. Learned counsel for the petitioners submits that petitioner No.1 is the husband of the complainant, petitioners No.2 and 3 are her parents-in-law, and petitioner No.4 is her sister-in-law. It is contended that while general and omnibus allegations have been levelled against all the accused, there are no specific or distinct allegations against petitioner No.4. It is further submitted that although petitioner No.4 has been named in the FIR and statements recorded under Section 161 Cr.P.C., she has neither been named nor assigned any role in the complainant's statement recorded under Section 164 Cr.P.C. before the Magistrate. Additionally, even in the petition



filed by the complainant under Section 125 Cr.P.C. prior to lodging of the FIR, no allegations whatsoever were made against petitioner No.4, which clearly indicates her false implication.

4. It is further contended that the matrimonial dispute between the parties arose due to incompatibility and differences in lifestyle. The complainant is alleged to have been disinterested in household responsibilities and made unreasonable demands which petitioner No.1 was unable to fulfill. It is submitted that the complainant voluntarily left the matrimonial home on 13/01/2021 along with her jewellery and belongings and thereafter refused to return despite repeated efforts made by the petitioners and their relatives. It is further alleged that the complainant and her family members threatened the petitioners with false criminal cases, and prior complaints in this regard were submitted by the petitioners to the police authorities.

5. Learned counsel further submits that the complainant filed a petition under Section 125 Cr.P.C. seeking maintenance, wherein she only made vague allegations regarding dowry demand and did not mention any of the serious allegations later introduced in the FIR, such as sexual assault, unnatural offences, or life threats. It is argued that had such grave incidents actually occurred, they would have found mention in the earlier proceedings, especially when stating reasons for living separately is essential in maintenance proceedings. The omission of such material facts clearly indicates subsequent embellishment and exaggeration.

6. It is also submitted that the statements made by the complainant



suffer from material inconsistencies. In the FIR and statements under Section 161 Cr.P.C., certain witnesses were named, whereas in the statement under Section 164 Cr.P.C., different witnesses were cited. Similarly, there are contradictions regarding the timeline of the alleged incidents of sexual assault. While in one version the duration is stated to be 2–3 months, the medical history records the incident as having occurred 5–6 months prior. Furthermore, the medical examination does not support the allegations of forcible unnatural acts, as no injuries or signs of such acts were found. The petitioners have also alleged misuse of police machinery, stating that petitioner Nos. 3 and 4 were unlawfully detained and petitioner No.1 was coerced into withdrawing his divorce petition under threat of false implication under Section 377 IPC. It is submitted that the complainant has acted with mala fide intention and has filed the present case as a counterblast to the matrimonial proceedings initiated by petitioner No.1. In view of the aforesaid facts and circumstances, it is contended that the allegations made in the FIR are exaggerated, inherently improbable, and motivated by personal vendetta. It is, therefore, prayed that this Court, in exercise of its inherent powers under Section 482 Cr.P.C., may be pleased to quash the impugned FIR, charge-sheet, and all consequential proceedings in the interest of justice.

7. On the other hand, learned counsel for the State vehemently opposed the petition and submitted that the impugned FIR, charge-sheet, and material collected during investigation disclose the commission of cognizable and serious offences, including cruelty for dowry, physical and sexual abuse,



criminal intimidation, and unlawful demands, which cannot be quashed at the threshold in exercise of inherent powers under Section 482 Cr.P.C. It is contended that the allegations made by the complainant are specific, grave, and supported by her statements recorded under Sections 161 and 164 Cr.P.C., which prima facie establish the involvement of the accused persons. The scope of interference under Section 482 Cr.P.C. is limited, and this Hon'ble Court cannot embark upon an appreciation of evidence or adjudicate disputed questions of fact at this stage. It is further submitted that minor inconsistencies or omissions, as pointed out by the petitioners, are matters of trial and do not demolish the prosecution case at its inception. The defence raised by the petitioners regarding false implication, matrimonial discord, or alleged contradictions is a matter of evidence, which cannot be examined in these proceedings. The investigation has been conducted in accordance with law, and sufficient material has been collected to proceed against the accused. Therefore, no case for quashment is made out, and the petition deserves to be dismissed.

8. Learned counsel for the complainant strongly opposes the petition and submits that the complainant has been subjected to continuous cruelty, harassment, and grave sexual and physical abuse at the hands of the petitioners in connection with unlawful dowry demands, which is clearly reflected in the FIR and her statements. It is contended that the allegations are not vague or omnibus but disclose a consistent pattern of harassment, including specific acts attributed to the husband and other family members, and therefore, the proceedings cannot be quashed merely on technical



grounds or alleged inconsistencies. It is further submitted that the omission of certain details in earlier proceedings under Section 125 Cr.P.C. cannot be construed as a ground to discredit the entire prosecution case, as the scope and nature of those proceedings are entirely different. The complainant, being a victim of sustained domestic violence and intimidation, may not have disclosed all incidents at the earliest opportunity, which is a natural human conduct. It is also argued that the contention regarding lack of medical evidence or contradictions in statements cannot be a ground for quashment, as such issues require appreciation of evidence during trial. The plea of false implication and counterblast is wholly baseless and an attempt to evade criminal liability. It is thus prayed that this Hon'ble Court may be pleased to dismiss the petition and permit the trial to proceed in accordance with law.

9. Heard counsel for the parties and perused the record.

10. It is well settled that the inherent powers of this Court under Section 482 Cr.P.C. are to be exercised sparingly, with circumspection, and only in cases where the allegations made in the FIR and material collected during investigation do not disclose the commission of any offence or where continuation of proceedings would amount to abuse of the process of law.

11. So far as petitioner No.4 (sister-in-law) is concerned, this Court finds substance in the submissions advanced by learned counsel for the petitioners. A careful reading of the FIR as well as the statements recorded under Section 161 Cr.P.C. reveals that only general and omnibus allegations have been levelled against her without attributing any specific overt act. Significantly, in the statement of the complainant recorded under Section



164 Cr.P.C. before the Magistrate, no role whatsoever has been assigned to petitioner No.4. Further, even in the earlier proceedings initiated by the complainant under Section 125 Cr.P.C., no allegations were made against her. In absence of any specific allegation demonstrating her active involvement in the alleged offences, her implication appears to be vague and prima facie an abuse of the process of law. Accordingly, the petition deserves to be allowed to the extent of petitioner No.4 and the FIR as well as consequential proceedings are hereby quashed so far as she is concerned.

12. In respect of petitioner No.1 (husband), the principal contention relates to the applicability of Section 377 of the IPC. In view of the aforesaid contentions and arguments advanced by counsel for the parties, it is apposite to consider the definition of "rape" as provided under Section 375 IPC, both prior to and after its amendment by Act No.13 of 2013. The amended provision significantly expands the scope of the offence by including various forms of penetration, including oral and anal acts, within the ambit of rape.

13. It is worth here to quote the definition of "rape" as prescribed under Section 375 of IPC, which reads as under:

375. Rape.- A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:--

First.- Against her will.

Secondly.- Without her consent.

Thirdly.- With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly.- With her consent, when the man knows that he is not her husband, and that her consent is given because she believes



that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.- With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly.- With or without her consent, when she is under sixteen years of age.

Explanation.-Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape. Exception.-Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape."

14. The definition of "rape" was amended by Act No.13 of 2013 and the amended definition of "rape" as defined under Section 375 of IPC reads as under:-

"Rape.-- A man is said to commit "rape" if he--

(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:

First.Against her will.

Secondly. Without her consent.

Thirdly. With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.



Fourthly. With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly. With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly. With or without her consent, when she is under eighteen years of age.

Seventhly. When she is unable to communicate consent. Explanation 1. For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2. Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity. Exception 1. A medical procedure or intervention shall not constitute rape.

Exception 2. Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape."

15. From the aforesaid definition, it is evident that the term "rape" under Section 375 of the Indian Penal Code (IPC) has been expansively defined. Clause (a) of Section 375 clearly includes penetration of the penis, to any extent, into the vagina, mouth, urethra, or anus of a woman, or compelling her to do so with him or with any other person. Thus, acts which were previously categorized as "unnatural offences" have now been expressly incorporated within the ambit of the definition of rape. Clauses (a), (b), (c), and (d) of Section 375 IPC collectively cover various forms of sexual penetration, irrespective of the nature or manner of the act. Therefore,



if a person penetrates his penis into the mouth, urethra, or anus of a woman without her consent, such an act would squarely fall within the definition of rape under Section 375 IPC, making the offender liable for punishment in accordance with law.

16. The issue that arises for consideration is whether, during the subsistence of a valid marriage, such acts between husband and wife would constitute an offence under Section 377 IPC ?

17. This question is no longer res integra. The Coordinate Bench at Jabalpur in the case of **Manish Sahu vs. State of M.P. (M.Cr.C. No.8388/2023)**, following the law laid down by the Hon'ble Supreme Court in **Navtej Singh Johar vs. Union of India (2018) 1 SCC 791**, has held that consent is a determinative factor for attracting Section 377 IPC. However, in light of Exception 2 to Section 375 IPC, sexual intercourse or sexual acts by a husband with his wife (not being a minor) do not constitute rape, thereby rendering the aspect of consent within marriage legally immaterial for the purpose of prosecuting such acts as rape.

18. A co-ordinate Bench of this Court in **Umang Singhar vs. State of M.P. (2023 SCC Onlie MP 3221)** has further elaborately considered the apparent overlap between Sections 375 and 377 IPC and held that in view of the expanded definition of rape, which includes acts such as anal and oral penetration, and the statutory exception in favour of marital relations, the offence under Section 377 IPC cannot be invoked for such acts between husband and wife during subsistence of marriage.

19. Applying the aforesaid legal position to the facts of the present



case, it is apparent that the allegations made by the complainant against petitioner No.1, even if taken at face value, pertain to acts committed within the marital relationship. In view of the exception carved out under Section 375 IPC and the judicial pronouncements referred to hereinabove, such allegations would not constitute an offence under Section 377 IPC.

20. Accordingly, this Court is of the considered opinion that the allegations made in the FIR do not prima facie disclose the commission of an offence under Section 377 IPC against petitioner No.1. Consequently, the proceedings against petitioner No.1 for the offence punishable under Section 377 IPC are hereby quashed.

21. However, so far as the remaining offences alleged against petitioner Nos.1 to 3 are concerned, including those under Sections 498-A, 354, 323, 294, 506, 34 IPC and Sections 3/4 of the Dowry Prohibition Act, this Court finds that the FIR and material collected during investigation disclose prima facie commission of cognizable offences. The contentions raised by the petitioners regarding false implication, inconsistencies in statements, absence of medical corroboration, and alleged mala fide intention involve disputed questions of fact which cannot be adjudicated in proceedings under Section 482 Cr.P.C. and are matters to be examined during trial.

22. In view of the foregoing, the petition is **partly allowed**. The impugned FIR and consequential proceedings are quashed to the extent of petitioner No.4. Further, the offence under Section 377 IPC is quashed qua petitioner No.1. The proceedings in respect of the remaining offences against



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petitioner Nos.1 to 3 shall continue in accordance with law.

(MILIND RAMESH PHADKE)
JUDGE

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