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2026:AHC-LKO:56617

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/s 482 No. - 10841 of 2025

Hirendra Kushwaha

.....Applicant(s)

Versus

State of U.P. Thru. Prin. Secy. Deptt. of Home Lko. and another

.....Opposite Party(s)

Counsel for Applicant(s)	: Shobhit Singh, Ajai Kumar Singh, Piyush Gupta, Rifat Naaz
Counsel for Opposite Party(s)	: G.A., Chandan Srivastava, Pranshu Agrawal

AFR

Court No. 18

HON'BLE INDRAJEET SHUKLA, J.

1. Heard Sri Shobhit Singh, learned counsel for the petitioner, learned AGA for the State-respondent and Sri Chandan Srivastava, learned counsel for the private respondent.

2. The Present application under Section 482 CrPC, now 528 BNSS, assails the summoning order dated 17.01.2023 passed under Section 498-A, 323, 504, 506 IPC and Section 3/4 of Dowry Prohibition Act, Police Station Ghazipur, District Lucknow including entire criminal proceedings qua Complaint Case No. 96681 of 2021 (Nancy Verma Vs. Hirendra Kushwaha and others) pending in the court of Special Chief Judicial

Magistrate (Custom) Lucknow.

3. The operative portion of summoning order dated 17.01.2023 reads as under:

"सुना तथा पत्रावली व, दण्ड प्रक्रिया संहिता की धारा-200 तथा धारा-202 दुःप्रसंग के अन्तर्गत परीक्षित साक्षियों का सम्यक अवलोकन किया। समस्त अवलोकन से विदित होता है कि परिवादिनी ने पति के विरुद्ध दहेज मांगने, मारपीट करने, जान से मारने की धमकी देने व उत्पीड़न करने का विशिष्ट कथन किया गया है। परिवादिनी द्वारा ससुराल पक्ष के अन्य व्यक्तियों को भी परिवाद में आरोपित किया गया है, परन्तु उनके द्वारा किये गये किसी भी कृत्य का कोई विशिष्ट विवरण नहीं दिया है। माननीय उच्चतम न्यायालय द्वारा प्रतिपादित विधि व्यवस्था कहकशा कौसर बनाम बिहार राज्य (2022 SCC ONLINE SC 162) में यह अवधारित किया गया है कि "General and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to under go trial. Allowing prosecution in the absence of clear allegations against the in laws would simply result in an abuse of the process of law."

अतः उपरोक्त परिशीलन तथा विधि व्यवस्था के आलोक में विपक्षी संख्या-1 हिरेन्द्र कुशवाहा को तलब किया जाना न्यायोचित प्रतीत होता है तथा अन्य विपक्षीगण संख्या-2 लगायत 3 को तलब किये जाने का पर्याप्त आधार नहीं है। अतः विपक्षी संख्या-1 हिरेन्द्र कुशवाहा को प्रथम दृष्टया अन्तर्गत धारा 498ए 323, 504, 506 आईपीसी व धारा-3/4 डीपीएक्ट के अपराध के विचारण के लिये तलब किया समीचीन प्रतीत होता है तथा अन्य किसी अपराध का बनना प्रथम दृष्टया नहीं पाया जाता है।"

Facts in brief

4. The prosecution story as unfolded in the application under section 156(3) CrPC is being recapitulated as under:

"The complainant has alleged that she was married to Hirdendra Kushwaha, son of Jaglal Maurya, on 14.12.2015, in accordance with Hindu rites and customs. According to her, no child was born from the wedlock even after three years of marriage, which led to a quarrel between the spouses. The further allegation is that her mother-in-law taunted her by calling her a "barren woman". It is stated that despite her repeated requests to consult a doctor, her husband neither agreed to undergo medical examination of himself nor permitted the complainant to seek medical consultation, and instead allegedly told her that if she is desirous to have a child, she should establish physical relations with his brother. The complainant has further alleged that on the night of 23.11.2020, following a quarrel over the issue of childlessness, she called her husband impotent and incapable of fathering a child, whereupon her husband, father-in-law and brother-in-law assaulted her. It is alleged that thereafter her husband confined her in a room, where her father-in-law and brother-in-law committed rape upon her one after another and threatened her with dire consequences if she disclosed the incident. She has further stated that upon regaining consciousness she found herself locked inside the room, and the following morning, after the door was opened by her mother-in-law, she escaped to her parental home. Further assertions, owing to fear, trauma and social stigma, she initially remained silent and disclosed the incident to her family members only after a few days,

whereafter she submitted an application dated 31.07.2021 at Police Station Ghazipur seeking registration of the case.”

5. It comes out from a bare reading of prosecution story, that during the course of a quarrel, in a fit of anger, the complainant called her husband impotent, which enraged her husband and brother-in-law, who said, that they would show her their manhood. “The husband, father-in-law and brother-in-law beat her severely” and the husband dragged her and locked in a room and she was allegedly raped by her brother-in-law and father-in-law. In the morning, when her mother-in-law opened the door, the complainant fled to her parental home. The complainant’s mother asked the complainant several time about the incident but out of fear and social stigma, the complainant remained silent and made herself isolated. With the passage of time, the complainant’s mental condition improved, then she narrated the entire incident to her family members. It is further mentioned in the complaint that, upon receiving assurance and support from her parental family, the complainant submitted a written report of the incident at Police Station Ghazipur, District Lucknow on 31st July, 2021 but there being no action taken by the police, constrained her to approach the court.

6. The application u/s 156(3) CrPC was treated as complaint case by the learned magistrate following procedure contained in Chapter XV of CrPC, 1973.

7. The complainant’s statement under Section 200 Cr.P.C. was recorded on 05.04.2022, which is reproduced verbatim as under:

“My marriage took place with Hirendra Kushwaha on 14 December 2015. On the second day after the wedding, I went to my in-laws’ house after the vidai. As soon as I got married, he had no interest in me. Time passed on. My in-laws — mother-in-law, father-in-law — and neighbours started saying, “Why aren't children being born?” This issue led to quarrels between me and my husband. When I pressed him harder, he used to say, “If you want to have a child, get it done from wherever you want, I won't do it.” After a considerable time passed, he said, “I have several problems, I cannot father a child.” After this, when I asked him to get a medical check-up, he would say, “I am a gazetted officer, I earn crores — what is the problem?” These were the matters over which fights would happen.

He used to taunt me. He would tell people at home that they had brought home a barren woman. He would tell his parents and sisters that the deficiency was in me. I got myself medically examined. On the day of the incident, when I showed him the report, he became enraged. He said the report was false "You can never become a mother. I am sufficiently guilty of having made you barren." I said harsh things back to him and his family. At this, my brother-in-law and father-in-law also joined the fight. The quarrel escalated to the point that they began beating me. My husband dragged me and locked me in a room. My father-in-law and brother-in-law said, "We'll show you what manhood is." Then this incident happened to me my father-in-law and brother-in-law raped me one after another. After that, I was locked in the room. When I regained consciousness, I found the room was locked. In the morning, when my mother-in-law opened the room, I fled to my parental home.

My father's both kidneys had failed, so my family could not pay much attention to me, as my father used to remain frequently ill. When my family members insisted and asked, I told them the entire incident at home. My father later passed away. The incident occurred on 23/11/2020.

I went to the police station. They kept calling me but did nothing. I sent information to the Police Commissioner by registered post. When no action was taken, I filed an application before the Court.

They used to beat me for dowry, but they also used to pressure me a great deal. He had hacked my entire mobile phone he used to send messages using my phone. They used to beat me. My husband is a government doctor. I have nothing further to state.

8. The statement of the complainant recorded under section 200 CrPC reflects that after narrating the entire incident, particularly mentioning of filing of application before police for registration of FIR, which means after the narration of entire episode, an afterthought demand of dowry has been added which does not find place in the entire complaint that too at the fag end of the statement.

9. To substantiate the version contained in complaint, second respondent (complainant) produced 2 other witnesses of facts namely Asha Rani Verma- PW.1, (mother of complainant), and Nimesh Verma- PW.2, (brother of complainant), who had repeated the version contained in complaint but they have not whispered even a single word with respect to demand of dowry and the fabric of complaint as well as the statement of witnesses produced by complainant indicates that the matrimonial discords have been exaggerated.

10. The statement of P.W.-1, Asha Rani Verma recorded under Section 202 CrPC verbatim reads as under:

“After the marriage, Hirendra (my son-in-law) never wanted to have children. This issue was the cause of frequent disputes between the couple. In November 2020, my daughter suddenly came to our house. Since her father was unwell at that time, we did not ask her why she had come home so suddenly. We assumed that she had come to see her father. However, when Nancy did not express any intention of returning to her matrimonial home, we insisted on knowing the reason. Upon being questioned, Nancy disclosed the disputes in her matrimonial family and stated that her brother-in-law and her father-in-law had raped her. She further stated that the dispute arose because all her medical reports regarding conception were normal. Hirendra used to defame her by alleging that Nancy was infertile. In response, my daughter called everyone impotent and eunuchs ("namard" and "hijra"). Enraged by this, her brother-in-law and father-in-law raped her. My daughter narrated this incident to me. She remained extremely withdrawn and silent, and it was only with great difficulty that she disclosed these facts.”

11. It is relevant to consider the statement of P.W 2 – Nimesh Verma to adjudge the validity of summoning order keeping in view of penal offences under which petitioner is sought to be tried, thus, statement of P.W.-2, Nimesh Verma recorded under Section 202 CrPC verbatim reads as under:

“When my sister came to our house, my father was critically ill. Both of his kidneys had failed and he underwent dialysis every second or third day. Therefore, when Nancy arrived, everyone assumed that she had come to see our father. No one paid much attention to the circumstances because my mother and I were constantly engaged in caring for him, while my elder brother used to go to the shop. However, when Nancy did not return to her matrimonial home even after about a month, we became concerned about why she remained withdrawn and why she was unwilling to go back. Whenever she had visited earlier, she would normally bring a travel bag. This time, however, she arrived without any bag, wearing only ordinary household clothes, looking dishevelled and extremely distressed. I asked her whether she had met with an accident and why she appeared so upset, but she avoided the question by saying that she was not feeling well. Thereafter, everyone left to take our father for his medical treatment. About four to five months later, when my father's condition had improved somewhat, all of us asked Nancy whether she intended to return to her matrimonial home. My father remarked that neither Hirendra nor his father had even enquired about Nancy's health and that no one from her matrimonial family had called. Nancy again tried to avoid the issue. My father then made her swear by him and asked what had really happened, why she was so depressed, and why she was constantly taking medicines. Nancy then disclosed the entire incident to my father and all the family members. I was sitting beside my father on his bed while she narrated the events. Nancy stated that her brother-in-law Hirendra and her father-in-law Jaglal had raped her. On hearing

this, everyone was shocked. My father's blood pressure rose dangerously high, and he was immediately admitted to the Medical College Hospital. Two to four days later, Nancy narrated the entire incident once again in detail. Nancy stated that the dispute had arisen over the issue of having children because her matrimonial family used to call her infertile. Hirendra did not want to have children. Whenever the issue of children was raised, he would say, in the presence of his father and brother, that she should have children through them. At other times he would tell her that she could never conceive. Disturbed by these statements, Nancy underwent medical examination to ascertain whether she was capable of becoming a mother. All her medical tests were normal and confirmed that she was capable of conceiving. On the night of 23 November 2020, Nancy showed these medical reports to Hirendra and told him that the reports proved she was capable of becoming a mother, whereas his family had falsely branded her as infertile, and asked him to undergo medical examination instead. Hirendra became enraged and accused her of bringing a false report. He further stated that the medicines he had been giving her were intended to make her infertile and that she would never become a mother. According to Nancy, this was the first time Hirendra admitted this. Upon hearing this, Nancy became furious and abused them by calling them impotent, eunuchs, and incapable of manhood. Enraged, Jaglal and Virendra said that they would show her what manhood was. Hirendra dragged Nancy into a room and locked it. Thereafter, Jaglal and Virendra allegedly raped her one after the other. The next morning, when her mother-in-law opened the latch, Nancy ran straight to our house. After hearing this, I lost my temper and immediately went to Hirendra's house. Only his mother was present there; the others were not. After an exchange of abuses, I returned. I made several attempts to meet Jaglal and Virendra, but they could not be found. Thereafter, on my father's advice, I decided to take legal recourse and we submitted a written complaint at the police station. My father was so deeply distressed by these events that, after some time, he died due to the shock."

Contentions advanced on behalf of petitioner

12. Learned counsel for the petitioner while impeaching the summoning order contended that the material particulars of the complaint, even if taken/examined at their face value, do not disclose the essential ingredients of the penal offences in which petitioner has been sought to tried.

13. Further submission is that, there is no specific allegation imputed against petitioner being husband, rather the allegations are general and omnibus in nature against all three accused thus singling out petitioner for his status being husband is again the hostile treatment.

14. It is further submitted that the complaint is vexatious and the summoning order does not reflect the due application of mind to the material brought on record, therefore, the continuation of the criminal proceedings would amount to an abuse of the process of Court and law.

Contention advanced on behalf of complainant-respondent no. 2

15. Learned Counsel for the complainant-respondent submitted that the statement in the complaint does constitute offences alleged, there is concrete material in the shape of statement of complainant under Section 200 CrPC and her two witnesses under Section 202 CrPC, thus, setting the criminal law into motion cannot be faulted on any count.

16. Learned Counsel for the complainant placed reliance upon an authority of the Hon'ble Supreme Court in the case of State of **Madhya Pradesh v. Yogendra Singh Jadon & Another**, (Criminal Appeal No. 175 of 2020), wherein the Hon'ble Supreme Court, observed that the power under Section 482 CrPC cannot be exercised where the allegations are required to be proved during the course of trial and warrants evidence to be led by the parties. Further submission is that the truthfulness of the allegations and disputed questions of fact cannot be adjudicated in proceedings under Section 482 CrPC.

17. Having heard learned counsel for the parties, it comes out that petitioner has been summoned under Section 498-A, 323, 504, 506 IPC and Section 3/4 of Dowry Prohibition Act, with the observation that prima facie offence under aforesaid penal sections are constituted against husband-petitioner whereas there is no good ground to summon other two accused viz. brother-in-law and father-in-law.

Analysis/Reasoning

18. This Court, does not detain itself with regard to truthfulness of the rival versions, however the moot issue is whether the uncontroverted allegations as mentioned in the complaint constitutes the offences in which petitioner has been asked to face the ordeal of trial.

19. The prosecution story as set out in the complaint coupled with the statement of complainant having been recorded under Section 200 CrPC and statement of her two witnesses i.e. mother of complainant (P.W.-1) and brother of complainant (P.W.-2), under Section 202 CrPC only indicates that during course of the quarrel complainant was addressed as 'barren woman' (infertile), now whether such address can be termed as cruelty particularly mental cruelty, when complainant herself had addressed the husband as impotent during altercation, which means there are abuses and counter abuses by the parties and it is not unilateral act of husband and relatives subjecting the complainant to cruelty.

20. To bring guilt of accused to home for an offence of cruelty, the conduct must be willful and harassment must be with a view to coerce the lady or any person related to her to meet an 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 but in the case in hand, the entire version of complainant if tested on the touchstone of legal requirements, for even *prima facie* constituting the offence of cruelty, the address as 'barren woman' could not be termed as cruelty particularly when there are exchange of filthy verbal blows from both the sides.

21. A careful examination of the complaint reveals that the

genesis of the quarrel between the parties was the absence of a child from the wedlock despite lapse of three years of marriage. The complaint further discloses that during the altercation happened on 23.11.2020, the complainant herself called her husband impotent, a eunuch and incapable of fathering a child, whereafter the quarrel escalated. These allegations, if taken at their face value, primarily portray a matrimonial discord arising for want of child leading to the exchange of offensive and insulting remarks between the spouses against each other, thus the same not being unilateral affair, rather both appear to be victim and offender for each other. Mere taunts regarding childlessness, refusal to undergo medical examination, or verbal altercations arising from such domestic discord cumulatively without fulfilling essential of cruelty envisaged under Section 498-A IPC, cannot by themselves constitute the offence of cruelty within the meaning of the said penal provision. Likewise, the allegation of calling the complainant a 'barren woman', though undoubtedly insensitive and reprehensible, does not, in the facts pleaded, by itself satisfy the ingredients of intentional insult with intent or knowledge to provoke a breach of the peace so as to attract Section 504 IPC, especially in the background of abuses and counter abuses by parties. The complaint, therefore, depicts a strained matrimonial relationship and domestic discord rather than the commission of the offences alleged.

22. It would be apposite to refer to section 504 IPC for reference:

"504. Intentional insult with intent to provoke breach of the peace.
— Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

23. To constitute an offence under the said provision, it is not sufficient that abusive or insulting words were merely exchanged between the parties. The prosecution must *prima facie* establish that the alleged insult was intentional and of such a nature as to

give provocation to the person insulted, intending or knowing it to be likely that such provocation would cause the person to break the public peace or commit any other offence. In the present case, the allegations that the complainant was referred to as a "barren woman" and that heated exchanges took place between the spouses over the issue of childlessness, even if accepted at their face value, do not disclose any material to suggest that the alleged words were uttered with the requisite intention or knowledge contemplated under Section 504 IPC. On the contrary, the complaint itself indicates that such statements were made in the course of a domestic altercation in spur of movement without any premeditation arising out of matrimonial discord.

24. In the absence of any specific averment demonstrating that the alleged intentional insult was of such a nature as was likely to provoke a breach of the peace or the commission of any other offence, the essential ingredients of Section 504 IPC remain unfulfilled. Consequently, the allegations, as mentioned, do not *prima facie* make out an offence punishable under Section 504 IPC. This principle has been reiterated by the Supreme Court in the case of **Fiona Shrikhande vs State of Maharashtra & Anr¹**, wherein the Court has held that:

“14. We may also indicate that it is not the law that the actual words or language should figure in the complaint. One has to read the complaint as a whole and, by doing so, if the Magistrate comes to a conclusion, prima facie, that there has been an intentional insult so as to provoke any person to break the public peace or to commit any other offence, that is sufficient to bring the complaint within the ambit of Section 504 IPC. It is not the law that a complainant should verbatim reproduce each word or words capable of provoking the other person to commit any other offence. The background facts, circumstances, the occasion, the manner in which they are used, the person or persons to whom they are addressed, the time, the conduct of the person who has indulged in such actions are all relevant factors to be borne in mind while examining a complaint lodged for initiating proceedings under Section 504 IPC.”

25. Upon a careful consideration of the allegations contained in

¹ (2013) 14 SCC 44

the complaint, this Court is of the *prima facie* opinion that the ingredients of the offence punishable under Section 504 IPC are not disclosed.

26. The allegations set out in the complaint, when examined in their entirety, predominantly disclose a matrimonial unrest arising out of the issue of childlessness and the consequential strained relationship between the spouses. The complainant has alleged that she was taunted for not conceiving, further her husband declined to undergo medical examination, and that frequent quarrels ensued on account of the inability to have a child. These allegations, by themselves, portray an unhappy matrimonial relationship and incompatibility between the parties. Section 498-A IPC, however, is not intended to criminalize every marital disagreement or every instance of domestic unpleasantness.

27. It is, apposite to refer to the provisions of Section 498-A IPC, which on reproduction reads as under:

“498A. 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 purpose 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.”

28. Section 498-A IPC penalizes a husband or his relatives for subjecting a married woman to "cruelty" and prescribes punishment with imprisonment which may extend to three years, along with fine. The expression "cruelty" has been specifically defined in the Explanation appended to the provision and cannot be understood in its ordinary or colloquial sense. Clause (a) of the Explanation contemplates two distinct categories of wilful

conduct: first, conduct of such a nature as is likely to drive the woman to commit suicide; and second, conduct which is of such gravity as to cause grave injury or endanger her life, limb, or physical or mental health. Clause (b), on the other hand, brings within its fold harassment of a woman where such harassment is with a view to coercing her or any person related to her to fulfil an unlawful demand for any property or valuable security, or where such harassment is occasioned by the failure to meet such demand. Thus, for an offence under Section 498-A IPC to be made out, the allegations must prima facie disclose acts falling within one or more of the contingencies specifically envisaged under the Explanation to the provision.

29. Mere calling someone as “barren women” (infertile) would not ipso facto attract the essential ingredients of the offence under section 498 A IPC as, there is no positive statement of fact that such address was with a view to drive the complainant to commit suicide, or causing grave injury or endanger her life, limb or physical or mental health. Even if the allegation is tested on the anvil of second part of explanation appended to section 498 A IPC qua cruelty, there is no material allegation of harassment with a view to coerce the complainant or any person related to her to fulfill any unlawful demand of property /valuable security or such harassment is occasioned by the failure to meet such demand. Entire complaint is bereft of any allegation meeting out the ingredients of offence under section 498-A IPC; thus, continuance of criminal prosecution in such penal provision is nothing short of a flagrant abuse of process of Court.

30. The remark/ address to a lady as a “barren woman” (infertile) for purpose of constituting an offence of cruelty came for consideration before the High Court of Andhra Pradesh in the case of **State of A. P vs. Kalidindi Sahadevudu and Ors.**²,

² 2011 SCC OnLine AP 569

wherein the Hon'ble High Court has held that "taunting on the ground of not being able to conceive cannot be taken as sufficient ground for proceeding under section 498-A IPC". The relevant paragraphs are reproduced as under:

"16. Mere commenting on the ground that the deceased was not begetting children does not amount to subjecting the deceased to cruelty within the meaning of section 498-A IPC. In the explanation (a) of Section 498-A IPC cruelty is defined in the following manner: (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 of life, limb or health (whether mental or physical) of the woman. Even if the first accused was saying that the deceased was not begetting children, it cannot be said that utterance of such words does amount to wilful conduct since he never thought that by uttering such words there was likelihood of the deceased committing suicide."

31. The Hon'ble Supreme Court in the case of **Shobhit Kumar Mittal vs State of U. P³**, has held as follows:

"15. Similarly, an offence is punishable under Section 498A of the IPC when a husband or his relative subjects a woman to cruelty, which may result in imprisonment for a term extending up to three years and a fine. The Explanation under Section 498A of the IPC defines "cruelty" for the purpose of Section 498A of the IPC to mean any of the acts mentioned in clauses (a) or (b) therein. The first limb of clause (a) of the Explanation to Section 498A of the IPC states that "cruelty" means any wilful conduct that is of such a nature as is likely to drive the woman to commit suicide. The second limb of clause (a) of the Explanation to Section 498A of the IPC states that cruelty means any wilful conduct that is of such a nature as to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman. Further, clause (b) of the Explanation to Section 498A of the IPC states that cruelty would also include harassment of the woman where such harassment is to coerce 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.

16. Further, Section 3 of the Dowry Act deals with the penalty for giving or taking dowry. It states that any person who gives, takes, or abets the giving or taking of dowry shall face a punishment of imprisonment for a minimum term of five years and a fine not less than fifteen thousand rupees or the value of the dowry, whichever is greater. Section 4 of the Dowry Act talks about the penalty for demanding dowry. It states that any person demanding dowry

³ 2025 SCC OnLine SC 2059

directly or indirectly from the parents or other relatives or guardians of a bride or bridegroom, as the case may be, shall be punished with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees.

19. Courts have to be careful and cautious in dealing with complaints and must take pragmatic realities into consideration while dealing with matrimonial disputes where the allegations have to be scrutinized with great care and circumspection in order to prevent miscarriage of justice and abuse of process of law.

21. On a careful consideration of the aforementioned judicial tests, we find that none of the offences alleged against the accused/appellant herein is made out. In fact, we find that the allegations of cruelty, mental harassment and voluntarily causing hurt against the accused/appellant herein are vague and general in nature and therefore, the judgment of this Court in the case of Bhajan Lal squarely applies to the facts of this case. It is neither expedient nor in the interest of justice to permit the present prosecution emanating from the FIR to continue.

(Emphasis added by Court)

32. To refresh our memory by examining the essentials of offence under Section 498-A IPC on the touchstone of parameters set out, it is profitable to be enlightened by the judgement of the Hon'ble Supreme Court rendered in the case of **Dara Lakshmi Narayana v. State of Telangana**⁴, which is extracted below:

"30. The inclusion of Section 498A of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise Page 22 of 26 in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498A of the IPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm-twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498A of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them."

(Emphasis added)

⁴ (2025) 3 SCC 735

33. At this juncture, it is apposite to notice the observations of the Hon'ble Supreme Court in **Abhishek v. State of Madhya Pradesh**⁵, insofar as they pertain to the allegations of offence of cruelty against the husband. The relevant observations read as under:

*“16. Instances of a husband's family members filing a petition to quash criminal proceedings launched against them by his wife in the midst of matrimonial disputes are neither a rarity nor of recent origin. Precedents aplenty abound on this score. We may now take note of some decisions of particular relevance. Recently, in Kahkashan Kausar v. State of Bihar [Kahkashan Kausar v. State of Bihar, (2022) 6 SCC 599 : (2022) 2 SCC (Cri) 684] , this Court had occasion to deal with a similar situation where the High Court had refused [Mohd. Ikram v. State of Bihar, 2019 SCC OnLine Pat 1985] to quash an FIR registered for various offences, including Section 498-AIPC. Noting that the foremost issue that required determination was whether allegations made against the in-laws were general omnibus allegations which would be liable to be quashed, this Court referred to earlier decisions wherein concern was expressed over the misuse of Section 498-AIPC and the increased tendency to implicate relatives of the husband in matrimonial disputes. **This Court observed that false implications by way of general omnibus allegations made in the course of matrimonial disputes, if left unchecked, would result in misuse of the process of law.** On the facts of that case, it was found that no specific allegations were made against the in-laws by the wife and it was held that allowing their prosecution in the absence of clear allegations against the in-laws would result in an abuse of the process of law. It was also noted that a criminal trial, leading to an eventual acquittal, would inflict severe scars upon the accused and such an exercise ought to be discouraged.*

17. In Preeti Gupta v. State of Jharkhand [Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667 : (2010) 3 SCC (Cri) 473] , this Court noted that the tendency to implicate the husband and all his immediate relations is also not uncommon in complaints filed under Section 498-AIPC. It was observed that 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, as allegations of harassment by husband's close relations, who were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different complexion and such allegations would have to be scrutinised with great care and circumspection.”

34. In the case of **Achin Gupta v. State of Haryana**⁶ , the

⁵ (2023) 16 SCC 666

⁶ (2025) 3 SCC 756

Hon'ble Supreme Court has dealt with the essentials of the offence of cruelty in the background of matrimonial discord between parties, which is to be examined keeping in view the physical and mental condition of parties and their character and social status. It was further held Section 498-A IPC cannot be applied mechanically. No FIR is complete without Sections 506(2) and 323 IPC. Every matrimonial conduct, which may cause annoyance to the other, may not amount to cruelty. Mere trivial irritations, quarrels between spouses, which happen in day-to-day married life, may also not amount to cruelty. The relevant observations are reproduced hereunder:

“32. Many times, the parents including the close relatives of the wife make a mountain out of a molehill. Instead of salvaging the situation and making all possible endeavours to save the marriage, their action either due to ignorance or on account of sheer hatred towards the husband and his family members, brings about complete destruction of marriage on trivial issues. The first thing that comes in the mind of the wife, her parents and her relatives is the police, as if the police is the panacea of all evil. No sooner the matter reaches up to the police, then even if there are fair chances of reconciliation between the spouses, they would get destroyed. The foundation of a sound marriage is tolerance, adjustment and respecting one another. Tolerance to each other's fault to a certain bearable extent has to be inherent in every marriage. Petty quibbles, trifling differences are mundane matters and should not be exaggerated and blown out of proportion to destroy what is said to have been made in the heaven. The Court must appreciate that all quarrels must be weighed from that point of view in determining what constitutes cruelty in each particular case, always keeping in view the physical and mental conditions of the parties, their character and social status. A very technical and hypersensitive approach would prove to be disastrous for the very institution of the marriage. In matrimonial disputes the main sufferers are the children. The spouses fight with such venom in their heart that they do not think even for a second that if the marriage would come to an end, then what will be the effect on their children. Divorce plays a very dubious role so far as the upbringing of the children is concerned. The only reason why we are saying so is that instead of handling the whole issue delicately, the initiation of criminal proceedings would bring about nothing but hatred for each other. There may be cases of genuine ill-treatment and harassment by the husband and his family members towards the wife. The degree of such ill-treatment or harassment may vary. However, the police machinery should be resorted to as a measure of last resort and that too in a very genuine case of cruelty and harassment. The police

machinery cannot be utilised for the purpose of holding the husband at ransom so that he could be squeezed by the wife at the instigation of her parents or relatives or friends. In all cases, where wife complains of harassment or ill-treatment, Section 498-A IPC cannot be applied mechanically. No FIR is complete without Sections 506(2) and 323IPC. Every matrimonial conduct, which may cause annoyance to the other, may not amount to cruelty. Mere trivial irritations, quarrels between spouses, which happen in day-to-day married life, may also not amount to cruelty.

(emphasis added)

35. Before this court adverts to the rival submissions advanced on behalf of the parties and examine the factual matrix of the present case, it would be apposite to briefly recapitulate the scope and ambit of the inherent jurisdiction vested in the High Court under Section 482 of CrPC (Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023). The parameters governing the exercise of such power, particularly in matters concerning quashing of criminal proceedings, have been authoritatively expounded by this Court in a catena of decisions, most notably in **State of Haryana v. Bhajan Lal**⁷, wherein the Hon'ble Supreme Court elaborately considered the extent and scope of the High Court's powers under Section 482 of CrPC and Article 226 of the Constitution of India. In paragraph 102 of the said judgment, the Hon'ble Supreme Court illustratively delineated seven categories of cases wherein such extraordinary jurisdiction may be invoked to prevent abuse of the process of law or otherwise to secure the ends of justice. For ready reference, the relevant extract from the said judgment is reproduced hereinbelow: -

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be

⁷ 1992 Supp (1) SCC 335

exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party

(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.”

[Emphasis supplied]

36. Having examined the complaint on its face value, there is absolutely no allegation of demand of dowry against in-laws; however in statement of complainant under section 200 CrPC, there is bald allegation of demand of dowry without specifying date, time and quantum of money/article, thus, such allegation does not inspire confidence even for a movement, more so statement under Section 200 CrPC cannot be allowed to fill the lacunas, which a complainant consciously omitted while filing application under Section 156 (3) CrPC (treated as a complaint), even after taking recourse of legal advice. Having examined the statement of witnesses i.e., mother and brother of the complainant, it comes out that they also failed to level any allegations of demand of dowry, thus, summoning under section 4 of the Dowry Prohibition Act again exhibits mechanical

exercise by learned Magistrate.

37. Furthermore, Sections 3 and 4 of the Dowry Prohibition Act, 1961 prescribe penal consequences for giving or taking dowry, as well as for demanding dowry. It would be apposite to reproduce the relevant provisions hereinbelow:

“3. Penalty for giving or taking dowry. — (1) *If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more.*

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years.

(2) *Nothing in sub-section (1) shall apply to, or in relation to, —*

(a) presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf): Provided that such presents are entered in a list maintained in accordance with the rules made under this Act;

(b) presents which are given at the time of a marriage to the bridegroom (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act:

Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.

4. Penalty for demanding dowry. — *If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees: Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.”*

38. Criminal prosecution is not a panacea for all evils arising out of matrimonial discords. If the complaint in question is read in its entirety, coupled with what figured in the statement of the complainant under Section 200 CrPC and the statutory enquiry conducted by the learned Magistrate, there is not even a single word suggesting giving or taking dowry. Thus, the impugned summoning order under Section 3 of the D.P Act, having not

exhibited satisfying ingredients essential for the offences as aforesaid, is an abuse of process of law and court.

39. In the present case, the allegations contained in the complaint, insofar as they relate to the offences under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act, are conspicuously lacking in the material particulars necessary to constitute the said offences. The complaint does not disclose any specific allegation of demand for dowry, much less the nature of such demand, the person by whom it was allegedly made, or the time and circumstances in which it was made. The allegations pertaining to the complainant being taunted for not conceiving, being referred to as a 'barren woman', and disputes arising on account of childlessness are general assertions reflective of matrimonial discord and are unaccompanied by particulars demonstrating that such conduct was of the nature envisaged under Section 498-A IPC. Likewise, apart from broadly alleging that she was assaulted on the night of 23.11.2020, the complaint is devoid of any independent material or contemporaneous circumstance lending support to the allegations of cruelty or harassment within the statutory meaning of the provision. Thus, the averments, as pleaded, remain largely general and omnibus in nature and fail to disclose the essential factual foundation required to prima facie constitute the offences alleged under Section 498-A IPC and the Dowry Prohibition Act.

40. It is also profitable to notice that while issuing the summoning order, the learned Magistrate was required to apply his judicial mind to the allegations contained in the complaint as well as the statements recorded under Sections 200 and 202 CrPC and to examine whether the material brought on record prima facie disclosed the essential ingredients of the offences alleged. The power to issue process is a serious matter and cannot be exercised as a matter of course, this principle is

reiterated by the Hon'ble Supreme Court in the case of **Krishna Lal Chawla v. State of U.P.**⁸, the relevant excerpts are reproduced below:

*“13. The aforesaid powers bestowed on the Magistrate have grave repercussions on individual citizens' life and liberty. Thus, these powers also confer great responsibility on the shoulders of the Magistrate – and must be exercised with great caution, and after suitable judicial application of mind. Observations in a similar vein were made by this Court in **Pepsi Foods Ltd. v. Special Judicial Magistrate**, (1998) 5 SCC 749:*

“28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.” (emphasis supplied) This Court, thus, clearly emphasised that the power to issue a summoning order is a matter of grave importance, and that the Magistrate must only allow criminal law to take its course after satisfying himself that there is a real case to be made.

14. Similarly, the power conferred on the Magistrate under Section 202, CrPC to postpone the issue of process pursuant to a private complaint also provides an important avenue for filtering out of frivolous complaints that must be fully exercised. A four Judge Bench of this Court has eloquently expounded on this in **Chandra Deo Singh v. Prokash Chandra Bose & Anr.**, AIR 1963 SC 1430:

“7. ...No doubt, one of the objects behind the provisions of Section 202 CrPC is to enable the Magistrate to scrutinise carefully the allegations made in the complaint with a view to prevent a person named therein as accused from being called upon to face an obviously frivolous complaint. But there is also another object behind this provision and it is to find out what material there is to support the allegations made in the complaint. It is the bounden duty of the Magistrate while making an enquiry to elicit all facts not merely with a view to protect the interests of an absent accused person, but also with a view to bring to book a person or persons against whom grave allegations are made. Whether the complaint is frivolous or not has, at that stage, necessarily to be determined on the basis of the material placed before him by

⁸ (2021) 5 SCC 435

the complainant...” (emphasis supplied) Thus, it is clear that, on receipt of a private complaint, the Magistrate must first, scrutinise it to examine if the allegations made in the private complaint, inter alia, smack of an instance of frivolous litigation; and second, examine and elicit the material that supports the case of the complainant.

22. This Court’s inherent powers under Article 142 of the Constitution to do ‘complete justice’ empowers us to give preference to equity and a justice oriented approach over the strict rigours of procedural law (**State of Punjab v. Rafiq Masih (Whitewasher), (2014) 8 SCC 883**). This Court has used this inherent power to quash criminal proceedings where the proceedings are instituted with an oblique motive, or on manufactured evidence (*Monica Kumar (Dr.) & anr. v. State of Uttar Pradesh, (2008) 8 SCC 781*). Other decisions have held that inherent powers of High Courts provided in Section 482, CrPC may be utilised to quash criminal proceedings instituted after great delay, or with vengeful or malafide motives. (**Sirajul & ors. v. State of Uttar Pradesh, (2015) 9 SCC 201; State of Haryana v. Bhajan Lal, AIR 1992 SCC 604**). Thus, it is the constitutional duty of this Court to quash criminal proceedings that were instituted by misleading the court and abusing its processes of law, only with a view to harass the hapless litigants.”

41. In the present case, the complaint is conspicuously silent with regard to any demand of dowry, whereas vague and indefinite allegation of demand of dowry appears subsequently in the statement recorded under Section 200 CrPC, after narrating the entire prosecution story, and the witnesses produced in support of the complaint have not whispered even a single word with respect to any demand of dowry. These material aspects were required to be considered while examining whether the essential ingredients of the offences under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act were *prima facie* disclosed. The summoning order, however, does not reflect adequate consideration of the aforesaid material aspects. In such circumstances, the issuance of process for the aforesaid offences, without examining whether the allegations and the material on record disclose the essential ingredients thereof, cannot be sustained.

42. The Hon’ble Supreme Court in the case of **Abhishek Saxena v. State of U.P. and Another**⁹, while exercising jurisdiction

⁹ 2023 SCC OnLine SC 1711

under Section 482 CrPC, held that the Court is required to examine whether the allegations and the material collected during investigation disclose the necessary ingredients of the alleged offence. The relevant excerpts are reproduced as below:

“6. As relates the allegation of commission of offence under Section 323, IPC besides the bald statement ‘when I asked these people about my daughter, they beat up me’ no material whatsoever to support the allegation causation of hurt is available on record much less voluntary causation of hurt.

8. As the High Court did not endeavour to consider whether the chargesheet submitted showed prima facie case under Sections 323, 384 and 406, IPC for voluntarily causing hurt, for extortion and for criminal breach of trust, we think it inevitable to undertake such a consideration as in the facts and circumstances while called upon to exercise the power under Section 482, CrPC the High Court was legally bound to see if allegations/accusations constitute any offence or not. As relates the alleged commission of offence under Section 323, IPC besides the bald statement of the second respondent-complainant ‘when I asked those people about my daughter, they beat up me’ no other material whatsoever is on record. In short, there is no material on record to support the alleged causation of hurt. Though the first respondent filed a counter affidavit nothing is stated/produced in regard to the said alleged offence.

10. As noted earlier, except the statement that ‘they beat up me’ by the complainant no material whatsoever is available on record in regard to the commission of the said offence. The incident allegedly occurred on 12.06.2016. In the recorded statement of the second respondent-complainant or in the counter affidavit filed by the first respondent there is not even a whisper that after the incident she went to a doctor or underwent any kind of treatment. Needless to say, that there is no statement - at least that injury report was prepared. In this context, it is also to be seen in respect of the incident, the FIR got registered only on 04.09.2016, that too much after the filing of petition No. 13/2016 by the appellant herein. Above all, as noted earlier, basic ingredients to constitute an offence under Section 323, IPC is lacking in the chargesheet.”

43. Insofar as the offence punishable under Section 323 IPC is concerned, the allegations in the complaint are equally vague, general and omnibus. It is only alleged the accused persons assaulted her on the night of 23.11.2020, the complaint is conspicuously silent as to the nature, extent, and location of the injuries allegedly sustained by the complainant. Significantly, no medical examination, injury report, treatment record, or any other contemporaneous medical document has been placed on record to lend prima facie support to the allegation of physical assault. While it is true that a medical report is not an indispensable requirement in every prosecution under Section

323 IPC, but where the allegation of assault is general, omnibus, and unsupported by any contemporaneous material, the absence of any medical evidence assumes significance in assessing whether the essential ingredients of the offence are *prima facie* disclosed.

44. In the facts of the present case, the vague, general, omnibus and unparticularized allegations, coupled with the complete absence of any medical corroboration, do not furnish a sufficient factual foundation to attract the offence punishable under Section 323 IPC more so when fabric of complaint on its plain reading is reflection of its being vexatious. The court cannot lose sight of the fact that the general and omnibus allegations of assault have been levelled against all the accused, namely, the husband (Hirendra Kushwaha), brother-in-law (Virendra Kushwaha), and father-in-law (Jaglal Maurya). However, the summoning order has been passed selectively against the husband, it is not the case of the complainant/respondent no. 2 that, in respect of the non-summoning of the other two accused, namely, Virendra Kushwaha and Jaglal Maurya, any protest petition or revision has been filed. Thus, insofar as the allegation of assault against the said two accused is concerned, the prosecution having not chosen further challenge resultant it being set at rest. The impugned summoning order does not disclose any cogent or discernible reasoning for drawing distinction in summoning petitioner being husband and leaving other co-accused, particularly when the allegations stem from a common incident and are founded on substantially similar assertions. In the absence of a clear rationale justifying differential treatment, the approach adopted by the trial Court is legally and factually unsustainable.

45. This court finds that for the offence of assault; the availability of medical report is not sine qua non moreover, if legal advice is received at the inception of the lodging complaint

particularly by means of application under section 156 (3) CrPC, the embellishment in the prosecution story cannot be ruled out and such factual scenario requires courts to be more vigilant. The offence of criminal intimidation warranting summoning order under Section 506 IPC is in continuation to offence of commission of rape and assault in same breath, the allegation of threat, therefore, appears to be a consequential embellishment forming part of the same narrative but the prosecution story in relation to offence of rape did not find favor of Court while passing the summoning order, thus, the addition of offences of assault and criminal intimidation appears to be an attempt to lend further color and gravity to the prosecution story without any factual foundation. The duty of the court to examine the allegation becomes more onerous to find out whether the attending circumstances do or do not indicate the prosecution launched to be vexatious in nature.

46. This court is illuminated from authoritative pronouncement of the Hon'ble Supreme Court rendered in the case of **Mahmood Ali v. State of U. P**¹⁰, wherein it has been unequivocally held that it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not and further emphasis is to examine attending circumstances emerging from the record. The relevant excerpts are as under:

“11. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the court owes a duty to look into the FIR with care and a little more closely.

12. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal

¹⁰ (2023) 15 SCC 488

vengeance etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.

13. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averparments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.

14.State of A.P. v. Golconda Linga Swamy [State of A.P. v. Golconda Linga Swamy, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , a two-Judge Bench of this Court elaborated on the types of materials the High Court can assess to quash an FIR. The Court drew a fine distinction between consideration of materials that were tendered as evidence and appreciation of such evidence. Only such material that manifestly fails to prove the accusation in the FIR can be considered for quashing an FIR. The Court held : (Golconda Linga Swamy case [State of A.P. v. Golconda Linga Swamy, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , SCC p. 527, paras 5-7.”

47. The consistent view emerging from judicial precedents is that the criminal justice system cannot be allowed to be employed as a means of harassment, coercion, or for settling personal scores. The inherent jurisdiction of the High Court under Section 482 CrPC (now Section 528 BNSS) is intended to safeguard against such misuse of the criminal process and to ensure that the administration of criminal justice serves its true purpose by preventing abuse of the process of law and securing the ends of justice.

48. In the case of **Mohd. Wajid and another v. State of U.P.**¹¹, the Hon'ble Supreme Court has held that, while examining a frivolous or vexatious prosecution, the Court is not required to confine its consideration merely to the averments contained in

¹¹ (2023) 20 SCC 219

the FIR/complaint, but may examine the attending circumstances and the material available on record to ascertain whether the prosecution has been instituted with an ulterior motive or for wreaking personal vengeance. The Court is required to read between the lines and consider the overall circumstances leading to the initiation of the proceedings. The relevant excerpts are:

“37. We say so because once the complainant decides to proceed against the “accused with an ulterior motive for wreaking personal vengeance, etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.

38. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

(Emphasis added)

49. The legal position has been authoritatively elucidated by the Hon'ble Supreme Court in **Mahmood Ali and Mohd. Wajid (supra)** that where an accused invokes the inherent jurisdiction of the High Court under Section 482 CrPC or its extraordinary jurisdiction under Article 226 of the Constitution seeking quashing of an FIR or criminal proceedings on the ground that the prosecution is manifestly frivolous, vexatious, or actuated by an ulterior motive to wreak vengeance, the High Court is under a duty to scrutinize the allegations with greater care and circumspection. The Court observed that such scrutiny cannot be confined merely to the averments contained in the FIR or the complaint for determining whether the essential ingredients of the

alleged offences are prima facie disclosed. In cases bearing the hallmarks of frivolous or vexatious prosecution, the High Court is obliged to examine the attending circumstances emerging from the record and, where the facts so warrant, to read between the lines so as to ascertain the true nature and substance of the allegations before permitting the criminal process to continue.

50. Having examined the attending circumstances emerging from record and reading between the lines so as to ascertain the true nature and substance of the allegations, before permitting criminal law to continue, in view of the dictum of the Hon'ble Supreme Court in **Mahmood Ali (supra)**, this court finds in the present case, the allegations against the accused are predominantly omnibus in nature, the individual roles are not specified, and the complaint fails to disclose the necessary ingredients of the principal offences for which the criminal machinery has been set in motion. Permitting such prosecution to continue would amount to allowing the criminal process to be used as a weapon in a matrimonial dispute rather than as a means for redressing a genuine criminal wrong.

51. The prosecution story as contained in the complaint appears to be inherently improbable that father (father-in-law) and son (brother-in-law) would cumulatively commit rape upon complainant (daughter in law) in presence of mother-in-law and husband and husband would facilitate for commission of such an offence. Thus, this court in the given factual matrix is bound to read between lines of prosecution story set up by complainant by piercing the veil of attending circumstances, in place construing the literal sense of phrases/ words contained therein, for constitution of alleged offence. From overall factual scenario as it is projected, if remains uncontroverted, it comes out, the issue of not having child went to hilt of frustration leading to allegation and counter allegation including abuses and counter abuses by parties, the prosecution story if reads verbatim appears

to be highly improbable.

52. In this backdrop, compelling petitioner to face a full-fledged criminal trial would serve no meaningful purpose the continuation of such proceeding, in the face of total lack of credible material connecting him with alleged offence would amount to abuse of criminal process, therefore, the instant petition under Section 482 CrPC, merits to be **allowed**, thus, impugned summoning order dated 17.01.2023 passed under Section 498-A, 323, 504, and 506 IPC and Section 3/4 of Dowry Prohibition Act, Police Station Ghazipur, District Lucknow is hereby set aside and entire criminal proceedings qua Complaint Case No. 96681 of 2021 (Nancy Verma Vs. Hirendra Kushwaha and others) pending in the court of Special Chief Judicial Magistrate (Custom) Lucknow are hereby **quashed**.

53. Before parting with the case, the Court places on record its appreciation for the diligent efforts and valuable assistance rendered by Ms. Shreya Shukla, Research Associate. Her contribution has meaningfully aided the adjudication of the present matter and deserves due acknowledgment.

(Indrajeet Shukla,J.)

Order Date: 13.08.2026
Pratima