

**IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 07.02.2025

+ **CRL.M.C. 4689/2019**

AJAY

.....Petitioner

versus

STATE & ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Sanchar Anand, Adv. through V.C.

For the Respondents : Mr. Manoj Pant, APP for the State.
SI Vinit, PC Subroto Park.
Mr. Anurag Sharma, Adv. for R-2 through V.C.

CORAM

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed seeking quashing of the FIR No. 262/2017 dated 06.10.2017, registered at Police Station Delhi Cantt, for offences under Sections 498A/34 of the Indian Penal Code, 1860 ('IPC'), and consequential proceedings arising therefrom.

2. The brief facts of the case are as follows:



2.1. The present FIR was registered at the behest of Respondent No. 2 against the petitioner and his family members alleging harassment on the ground of demand for dowry and for not returning her *stridhan*. The marriage of the petitioner and Respondent No.2 was solemnized on 25.12.2011 and it is alleged that ₹10 lakhs were spent in the marriage.

2.2. It is alleged that only a few days after marriage, the petitioner, and his family, including, his father, mother, and brother, started taunting Respondent No.2 that even though the petitioner earns ₹6 lakhs/ month and they had gotten many marriages offers for him, however, they got him married to Respondent No.2 as they thought her father, who is a government officer, will match their status. It was further alleged that Respondent No.2's in-laws stated that they were expecting a Honda City car, but her father had not even gifted a bike.

2.3. It is alleged that the petitioner and his family members used to taunt Respondent No.2 that her father was a greedy person as he had given no gold items, bike, or car to them. It is further alleged that the complainant suffered the cruelty owing to the poor financial status of her father, and by each passing day, the taunts and demands became more aggressive.

2.4. It is alleged that even though the father of Respondent No.2 called the panchayat multiple times, however, on 13.07.2014, Respondent No.2 was forcibly ousted from her matrimonial home. It is alleged that Respondent No.2's mobile phone, 3 ATM cards, gold-



silver jewelry were also not returned. Due to the constant mental and physical torture, Respondent No.2 allegedly suffered miscarriage.

2.5. In the year 2014, the petitioner came to the maternal home of Respondent No.2 and tried to fraudulently take a divorce from her by assuring her that she would suffer no more torture or humiliation. It is alleged that the petitioner and his father also made allegations against Respondent No.2 that she is a characterless woman and she was not given back her *stridhan* despite several requests.

3. The learned counsel for the petitioner submitted that the petitioner has been falsely implicated in the present case. He submitted that the present FIR and other complaints were preferred by the complainant against the petitioner and his family members to hide her adulterous conduct.

4. He submitted that the parties had separated after the petitioner found the photos of the complainant with another male person. He submitted that the parties had decided to take a mutual divorce before a biradri panchayat and thereafter, a divorce petition had been preferred jointly by the parties. He submitted that in the said petition, it is categorically pleaded that the complainant has received back all her *stridhan* and there is no mention of any cruelty on account of demand of dowry in the joint petition.

5. He submitted that the complainant took back her consent on the premise that the petitioner had induced her to sign the petition for seeking divorce by stating that the same was to merely placate his



parents, however, the excuse is implausible. He submitted that the divorce has now been granted *ex-parte* on the ground of cruelty.

6. He submitted that the allegations in the FIR are vague and general in nature, and continuation of proceedings against the petitioner would be an abuse of the process of the Court. He submitted that no time, date or place in relation of the allegations has been mentioned in the FIR.

7. He submitted that no specific entrustment of dowry articles has been shown by the complainant and the offence under Section 498A of the IPC is thus not made out against the petitioner.

8. He submitted that while the complainant had made allegations against the petitioner and his family members, however, only the petitioner has been charge sheeted in the present case.

9. He submitted that the complainant's father in his complaint dated 09.05.2015, to the Police Station Dhaula Kuan, has specifically stated that the petitioner refused to take any dowry and no dowry was exchanged between the parties.

10. He further submitted that the proceedings are still pending at the stage of prosecution evidence and Respondent No.2 has not even come forward for examination before the learned Trial Court. He submitted that Respondent No.2's petition under Section 125 of the Code of Criminal Procedure, 1973 ('CrPC') and complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 have been dismissed in default for non-prosecution.



11. The learned counsel for Respondent No.2 submitted that Respondent No.2 had withdrawn her consent for divorce by mutual consent because the petitioner had duped her into signing the joint petition on the false pretext that the same was meant to only placate his parents. He submitted that the joint petition cannot be read against Respondent No.2.

12. He further submitted that merely because the parties have been granted divorce, the same has no effect on the merits of the present FIR. He submitted that Respondent No.2 has made categorical allegations against the petitioner and there is no cause for quashing of the present FIR.

ANALYSIS

13. It is relevant to note that the petitioner has invoked the inherent jurisdiction of this Court seeking quashing of the present FIR. While this Court needs to exercise restraint in stifling prosecution, however, the inherent jurisdiction can be exercised if it is found that the continuance of criminal proceedings would be a clear abuse of process of law. The Hon'ble Apex Court, in the case of ***State of Haryana v. Bhajan Lal* : 1992 Supp (1) SCC 335**, had illustrated certain categories of cases where the inherent jurisdiction can be exercised to prevent abuse of process of law and secure the ends of justice. The relevant portion of the judgment is reproduced hereunder:

“102...(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)

14. The Hon’ble Apex Court, in the case of **Indian Oil Corporation v. NEPC India Limited and Others : (2006) 6 SCC 736**, had also discussed the scope of jurisdiction under Section 482 of the CrPC to quash criminal proceedings. The relevant portion of the same is reproduced hereunder:



*“12. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few—*Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre* [(1988) 1 SCC 692 : 1988 SCC (Cri) 234] , *State of Haryana v. Bhajan Lal* [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , *Rupan Deol Bajaj v. Kanwar Pal Singh Gill* [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059] , *Central Bureau of Investigation v. Duncans Agro Industries Ltd.* [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045] , *State of Bihar v. Rajendra Agrawalla* [(1996) 8 SCC 164 : 1996 SCC (Cri) 628] , *Rajesh Bajaj v. State NCT of Delhi* [(1999) 3 SCC 259 : 1999 SCC (Cri) 401] , *Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd.* [(2000) 3 SCC 269 : 2000 SCC (Cri) 615] , *Hridaya Ranjan Prasad Verma v. State of Bihar* [(2000) 4 SCC 168 : 2000 SCC (Cri) 786] , *M. Krishnan v. Vijay Singh* [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] and *Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque* [(2005) 1 SCC 122 : 2005 SCC (Cri) 283] . The principles, relevant to our purpose are:*

(i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a



few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.”

(emphasis supplied)

15. It is true that in case it is found that the proceedings are manifestly frivolous or vexatious or are instituted with the ulterior motive of wreaking vengeance, this Court ought to look into the FIR with care and little more closely. The High Court can look into the attending circumstances emerging from the record of the case and can read between the lines. If the allegations are far-fetched and it appears that the provisions of Section 498A of the IPC are misused, the Court can interfere while exercising powers under Section 482 of the CrPC [Ref. ***Mahmood Ali & Ors. v. State of U.P & Ors. : 2023 SCC OnLine SC 950; Abhishek v. State of Madhya Pradesh : 2023 SCC OnLine SC 1083*** and ***Kahkashan Kausar @ Sonam & Ors. v. State of Bihar & Ors. : (2022) 6 SCC 599***].

16. In the present case, it is the case of the prosecution that



Respondent No.2 was subjected to taunts and harassment on account of unmet dowry demands. It is also alleged that the *stridhan* of Respondent No.2 was not returned to her.

17. At the outset, it is relevant to note that admittedly, as per the FIR, the parties started living separately from 13.07.2014, when Respondent No.2 was forcibly ousted from the matrimonial house. However, the present FIR was registered on 06.10.2017, that is, more than years after the petitioner had filed a petition seeking divorce on the ground of cruelty. In the case of ***Achin Gupta v. State of Haryana*: 2024 SCC OnLine SC 759**, where the complainant had lodged the FIR nearly two years after the accused appellant (the husband) filing the divorce petition, it was observed that such unexplained delay pointed that the FIR was filed only to harass the accused appellant and his family members. In the present case as well, no explanation has been provided as to why she had remained silent and not initiated any action against the petitioner for over three years after being ousted from her matrimonial home.

18. It is argued on behalf of the petitioner that the allegations levelled in the FIR are vague in nature and no particulars of the alleged demands has been specified in the FIR.

19. A bare perusal of the FIR shows that similar allegations have been made in a sweeping manner against the petitioner as well as his family members. Despite the same, it is pertinent to note that the chargesheet in the present case has only been filed against the



petitioner and not his family members, that is, his father, mother and brother, who have been kept under column 12.

20. This Court again considers it apposite to refer the observations of the Hon'ble Apex Court in the case of ***Achin Gupta v. State of Haryana*** (*supra*), where it was noted that the FIR seemed to have arisen out of matrimonial acrimony as the investigating agency had deemed it fit to not proceed against the relatives of the appellant therein. It was also noted that in a malicious litigation, the complainant was more likely to ensure that the basic ingredients of the alleged offence are made out. The Hon'ble Apex Court also drew an adverse inference on account of the allegations being general in nature. The relevant portion of the judgment is produced hereunder:

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

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



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31. We are of the view that the category 7 referred to above should be taken into consideration and applied in a case like the one on hand a bit liberally. If the Court is convinced by the fact that the involvement by the complainant of her husband and his close relatives is with an oblique motive then even if the FIR and the chargesheet disclose the commission of a cognizable offence the Court with a view to doing substantial justice should read in between the lines the oblique motive of the complainant and take a pragmatic view of the matter...We are saying so for the simple reason that if the wife on account of matrimonial disputes decides to harass her husband and his family members then the first thing, she would ensure is to see that proper allegations are levelled in the First Information Report. Many times the services of professionals are availed for the same and once the complaint is drafted by a legal mind, it would be very difficult thereafter to weed out any loopholes or other deficiencies in the same. However, that does not mean that the Court should shut its eyes and raise its hands in helplessness, saying that whether true or false, there are allegations in the First Information Report and the chargesheet papers disclose the commission of a cognizable offence. If the allegations alone as levelled, more particularly in the case like the one on hand, are to be looked into or considered then why the investigating agency thought fit to file a closure report against the other co-accused? There is no answer to this at the end of the learned counsel appearing for the State. We say so, because allegations have been levelled not only against the Appellant herein but even against his parents, brother & sister. If that be so, then why the police did not deem fit to file chargesheet against the other co-accused? It appears that even the investigating agency was convinced that the FIR was nothing but an outburst arising from a matrimonial dispute.

32. ... A very technical and hyper sensitive approach would prove to be disastrous for the very institution of the marriage... 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 498A of the IPC cannot be applied mechanically.** No FIR is complete without Sections 506(2) and 323 of the 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.”*

(emphasis supplied)

21. In the current case as well, sweeping and omnibus allegations have been levelled against the petitioner. No date or time or particulars of the alleged instances of demand for dowry or harassment have been specified in the FIR.

22. As noted above, when quashing of an FIR is sought on the ground that the proceedings are manifestly frivolous, this Court owes a duty to look beyond the allegations into ancillary circumstances as well.

23. At this juncture, before proceeding further, it is important to take note of the complaint made by Respondent No.2's father on 09.05.2015 to the SHO of Police Station Dhaula Kuan. The complainant's father, in his complaint dated 09.05.2015, has made sweeping allegations of harassment on account of demand of dowry. It is stated in the said complaint that the petitioner's family members had harassed the complainant for dowry after the petitioner had left on ship as he was employed in merchant navy. Certain allegations in relation to the petitioner and his family threatening to misuse the alleged obscene photos and videos of complainant for defaming the



complainant's family are also made.

24. No allegations in relation to any such threats have been levelled in the FIR, however, it cannot be ignored that even in the complaint dated 09.05.2015, no specific incident of harassment by the petitioner for dowry has been spelt out. On the other hand, the complaint seems to suggest that the petitioner refused to take dowry at the time of marriage and the rancour was between the petitioner's family and Respondent No.2.

25. No evidence was found against the family members of the petitioner either. In such circumstances, this Court finds merit in the contention of the petitioner that the allegations appear to be an afterthought and counterblast to the divorce petition.

26. The petitioner has obtained a decree of divorce on the ground of cruelty way back on 23.08.2019, where it has been noted that Respondent No.2 was involved in voluntary physical intimacy with her boyfriend. It is pointed out that Respondent No.2 has not challenged the same.

27. Courts have taken note of the increasing tendency of implicating the husband and his family in matrimonial litigation in a number of cases. While the provision of Section 498A of the IPC was introduced with an object to combat harassment meted out to married woman, however, it is abysmal to note that the same is now also being misused as a tool to harass the husband and his family members and gain a leverage. Such matters are now filed in the heat of the moment



on advice of counsel by exaggerating and misconstruing actual events. That is not to say that genuine cases of harassment don't exist. This Court is not blind to the ground reality of the deeply rooted social evil of greed for dowry, due to which, numerous victims are subjected to unspeakable conduct and harassment. However, in matters such as this, where vague allegations have been made against the petitioner, that too belatedly, in the opinion of this Court, continuation of proceedings would amount to an abuse of the process of law.

28. In view of the aforesaid discussion, FIR No. 262/2017 and all consequential proceedings arising therefrom are quashed.

29. The present petition is allowed in the aforesaid terms.

AMIT MAHAJAN, J

FEBRUARY 7, 2025