2025 INSC 671

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2025
[Arising out of SLP (Crl.) Nos. 2353-2354 of 2019]

…APPELLANT(S)

VERSUS

STATE OF UTTAR PRADESH …RESPONDENT(S)

J U D G M E N T

SATISH CHANDRA SHARMA, J.

1. Leave granted.

2. These Appeals by special leave are directed against Order dt.14.11.2018 passed by the High Court of Allahabad in Criminal Revision No. 612/2004 filed against the judgment and order dt. 18.11.2004 passed by the Additional Sessions Judge, Lucknow [*hereinafter* "**Sessions Court**"] whereby the Criminal Appeal No.

88/2004 filed by the Appellant was dismissed and the conviction of the Appellant under Section 498A of the Indian Penal Code (hereinafter "IPC" & Section 4 of the Dowry Prohibition Act, 1961 [*hereinafter* "**DP Act, 1961**"] vide Judgment dt. 28.08.2004 passed by the Chief Judicial Magistrate, Lucknow [*hereinafter* "**Magistrate**"] was upheld. The Order dt. 28.11.2018 dismissing the recall application against the said Order dt.14.11.2018 is also under challenge before this Court.

3. The captioned Appeal arises out of Case Crime No. 60/1999 lodged by the PS Women Police Station, Lucknow under Sections 498A, 323, 506 IPC & Sections 3 & 4 of the D.P. Act, 1961, on the basis of a Complaint dt. 20.12.1999 filed by the Complainant wife, against the Appellant husband and her in-laws alleging mental and physical torture for not bringing enough dowry. The factual conspectus in brief is as under:

3.1 The marriage of the Appellant with the Complainant, Ms. had taken place on 12.02.1997. The Appellant resided separately with the Complainant wife only for a period of 12 days, from 08.09.1998 to 20.09.1998.

3.2 The Complainant who was working as a teacher with St. Thomas School prior to her marriage had allegedly resigned from her job on the advice of the Appellant husband; and her family had spent more than Rs. 5 lakhs towards the wedding. However, the Appellant, her in-laws, and the brother-in-law (*Jeth*) were

constantly unhappy & dissatisfied, and subjected her to constant taunts, and inflicted upon her physical and mental atrocities. It is alleged that the Appellant husband and her in-laws forced the Complainant to consume milk mixed with some narcotic/alcoholic substances, and forced upon her to attend parties with his friends, where alcohol was served, and if the Complainant refused, the Appellant and his family would humiliate her. Allegedly, the parents-in-laws, in conspiracy with the Appellant, had planned to kill her, and had kept her in a safe house, separately from the matrimonial home, the keys for which were with the parents-in-law. On 23.09.1998, when the father of the Complainant was invited to the matrimonial house, the Appellant and her in-laws had allegedly assaulted the Complainant with kicks and punches in front of her father. The Appellant and his family purportedly expelled the Complainant, while she was pregnant. Thereafter, on 10.02.1998, the Appellant and her family again while ousting her out of the house, allegedly gave her a strong push, and as a result she fell down, and owing to the injury, had suffered a miscarriage. It is the case of the Complainant in the FIR that she made several requests for reconciliation including efforts through Family Counselling Centre till 16.12.1999, but it has been in vain, and as a consequence she registered the Complaint dt. 20.12.1999 against the Appellant and his family.

3.3 In her statement under Section 164 of the Code of Criminal Procedure, 1973 (hereinafter "CrPC"), before the Magistrate, the Complainant reiterated the allegations in the FIR and stated for the first time that she was forced by the Appellant and his family to join service in St. Fidelis School, Aliganj, Lucknow and the in-laws would snatch her entire month's salary, which was only Rs. 4,000/- at the time. On 23.09.1998, when the Appellant raised a demand of Rs. 2 Lacs, and her parents were unable to arrange the money, the Appellant and the in-laws allegedly beat her up. The Complainant asserts that she only took with her four gold bangles and one ring, while leaving her matrimonial home in July 1997 and rest all jewellery and list of items were with the Appellant or his family.

3.4 The Complainant and her father were examined as PW-1 and PW-2, respectively. PW-2, has fully supported the testimony of PW-1, and in both the statements, the demand of Rs. 2 lakhs as dowry by the in-laws & the mental and physical atrocities inflicted on her, is persistent. However, both the witnesses could not substantiate the allegations of hurt or physical assault. The Trial Court vide Judgment dt. 28.08.2004, upon duly considering the testimony of both the witnesses and the material on record, observed that the prosecution failed to prove beyond reasonable doubt, the commission of offences under Sections 323 and 34 IPC, rendering the following opinion:

"It is evident from perusal of the evidence available on record that both the fact witnesses have not made it clear in their evidence that any simple hurt was caused to the Complainant as a result of the physical assault by accused persons. Even if it is believed that the accused committed mar-pit with the Complainant, I think had the Complainant been subjected to physical assault by all the accused persons by kicks and punches, yet she would have sustained serious injuries and in such a situation, I am of the opinion that medical examination of the Complainant must have been done so as to prove that she has sustained injuries due to the assault by accused persons, but it appears from the perusal of the record that the prosecution did not attempted to adduce any such evidence before the court as any medical certificate/injury report with regard to the injuries of the Complainant has not been filed. In this context, the evidence of the complainant is the only strong evidence regarding the injuries, as she was subjected to physical assault by the accused persons but it appears from perusal of the testimony of the witness that she has nowhere mentioned in her statement that she sustained injuries on such and such part of her body due to the physical assault committed by accused persons.

> *Besides, it is also evident from record that the prosecution has further stated that the complainant had miscarriage due to physical assault committed by accused persons. In my opinion, if such an incident had actually taken place, the complainant was required to get her medical examination done so as to prove that the miscarriage took place due to physical assault committed by the accused persons as a miscarriage is not a normal/ordinary course of events but it is clear from perusal of record that prosecution has not adduced any cogent evidence with regard to the miscarriage. Therefore, the allegation of miscarriage due to physical assault proves to be concocted story. In light of the foregoing discussion, I reach the conclusion that the prosecution has failed to prove the allegation of physical assault of the complainant and resultant simple hurt beyond reasonable doubt."*

3.5 The Trial Court vide Judgment dt. 28.08.2004, observed that although the prosecution had failed to prove its case against the Appellant & the co-accused persons, for offences under Section 323 r/w 34 and Section 506 IPC; it had proved beyond reasonable doubt, the case under Section 498A IPC and Section 4 of the D.P. Act, 1961 against the Appellant alone. The Trial Court

acquitted the Appellant for offences under Section 323 r/w 34 and Section 506 IPC and convicted him for offences under Section 498A IPC and Section 4 of the D.P. Act, 1961. Accordingly, the Trial Court sentenced the Appellant as under:

Offence(s) under Section	Period of Sentence	Fine imposed
498A IPC, 1860	2 years RI	Rs. 5000/-
4 DP Act, 1961	1 year RI	Rs. 2000/-

3.6 The Criminal Appeal No. 88/2024 preferred by the Appellant against the Judgment dt. 28.08.2024 passed by the Magistrate, was dismissed by the Ld. Additional Sessions Judge, vide its Judgment/Final Order dt. 18.11.2004 and the conviction under Section 498A of IPC & Section 4 of the D.P. Act, 1961 & the quantum of sentence *qua* the Appellant was upheld.

3.7 The Appellant had preferred a Criminal Revision No. 612/2004 against the Judgment/Final Order dt. 18.11.2004 before the High Court, which has been dismissed vide Impugned Judgement and Final Order dt. 14.11.2018. The High Court within its powers of revision, upheld the conviction of the Appellant under Section 498A of IPC and Section 4 of the D.P. Act, 1961 with the observation that there was no error of law or perversity

in the orders passed by the lower courts. The said portion is reproduced as under:

> *"I have perused the judgment and orders dated 18.112004 and 28.08.2004, passed by learned courts below. The learned courts below have considered all aspects of the matter in detail and I do not find any error of law or perversity in the aforesaid impugned judgment and orders. The instant revision lacks merit, and deserves to be dismissed."*

3.8 Further, vide Order dt. 28.11.2018, passed by the High Court, the Application seeking recall of the Impugned Order dt.14.11.2018 was also rejected at the threshold, as being misconceived in law.

4. It has been vehemently argued by the learned Counsel for the Appellant that the Impugned Judgment dt. 14.11.2018 passed by the High Court, suffers from non-application of mind, and non-consideration of the merits of the case. Learned Counsel for the Appellant submitted that the allegations under Section 498A IPC and Section 4 of the D.P. Act, 1961, were unsustainable *qua* the Appellant, as there is no independent evidence on behalf of the prosecution, and the entire case hinges upon the deposition of the father of the Complainant and Complainant herself. It was argued that the Complainant who cohabited with the Appellant only for

a period of about a year, had made bald allegations without any specifics of date, time or event, in the FIR in Case Crime No. 60/1999, which has only been registered as a counter-blast to the Divorce Petition preferred by the Appellant. It is brought to our notice that the divorce decree in lieu of their marriage, has already been passed, and the same has never been challenged by the Complainant, and hence has attained finality.

5. It has also been urged by the learned Counsel for the Appellant, that the High Court passed the Impugned Order in absence of representation of a Counsel on behalf of the Appellant, which is not permissible. Learned Counsel for the Appellant submitted that in the absence of a Counsel for the Appellant, the High Court could have appointed an *amicus-curiae* to represent the case of the Appellant, rather than passing an adversarial order against him.

6. On the other hand, it has been argued on behalf of the State that to establish cruelty within the threshold of Section 498A, the evidence of the relatives of the Complainant wife cannot be brushed aside. The deposition of the father of the Complainant does establish that the Complainant was time and again harassed, and beaten her up for not bringing enough dowry. Reliance was placed on ***Bhagwan Jagannath Markad v. State of***

Maharashtra*[1]*, Arun Vyas & Anr. v. Anita Vyas*[2]*, Surendran v. State of Kerala*[3]*.

ANALYSIS

7. Having heard the learned counsel for the respective parties and having perused the record, the question remains whether the High Court vide Impugned Order dt. 14.11.2018 whilst exercising its revisionary jurisdiction, was correct in upholding the conviction of the Appellant under Section 498A IPC & Section 4 D.P. Act, 1961. In that respect, it is prudent to examine the statutory provisions, which are 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)*

[1] (2016) 10 SCC 537
[2] (1999) 4 SCC 690
[3] (2022) 15 SCC 273

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."

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: Page 12 of 26 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."*

8. At the outset, an act of 'cruelty' for the purpose of Section 498A, corresponds to a willful conduct of such nature, that may cause danger to the life, limb and health of the woman, which is inclusive of the mental and physical health and the harassment caused to her, by coercing her to meet unlawful demands or impossible standards. Further, the demand for dowry in terms of Section 3 and Section 4 of the D.P. Act, 1961 refers to both a direct or indirect manner of demand for dowry made by the

husband or his family members. In order to meet the threshold of the offences under Section 498A IPC & Sections 3 & 4 of the D.P. Act, 1961, the allegations cannot be ambiguous or made in thin air.

9. In the present case, the allegations made by the Complainant are vague, omnibus and bereft of any material particulars to substantiate this threshold. Apart from claiming that Appellant husband harassed her for want of dowry, the Complainant has not given any specific details or described any particular instance of harassment. The allegations in the FIR, and the depositions of the prosecution witnesses suggest that on multiple occasions, the Complainant wife was ousted from the matrimonial house, and kicked and punched in the presence of her father, PW-2 herein and she was repeatedly tormented with dowry demands, and when she was unable to honor them, the Appellant and her family physically beat her up; whereas she has not mentioned the time, date, place, or manner in which the alleged harassment occurred. It is alleged that the Complainant suffered a miscarriage, as she fell down, when the Appellant and her family who pushed her out of the house; however, no medical document from any medical institution or hospital or nursery was produced to substantiate the allegations.

10. Upon carefully considering the record, we find that apart from the statements of PW-1 and PW-2, there is no evidence to

substantiate the allegations of harassment and acts of cruelty within the scope of Section 498A of IPC, and Section 4 of the D.P. Act, 1961. For this reason, we find merit in the submission of the learned Counsel for the Appellant, and are of the considered view that there is no material on record to establish the allegations of hurt or miscarriage, and of hurt and criminal intimidation in terms of Section 323 r/w 34 and Section 506 IPC respectively. The Trial Court has rightly held that evidence of the Complainant is the only strong evidence that she sustained injuries on various parts of her body due to the physical assault by the accused persons, and that there was no medical examination conducted by the Complainant, so as to prove that the miscarriage was a consequence of the physical assault.

11. The Trial Court has indeed applied its judicial mind to the material on record whilst acquitting the Appellant and the co-accused parents-in-law for offences under Section 323 r/w 34 & Section 506 IPC. However, it appears that the Trial Court had passed the order of conviction of the Appellant under Section 498A IPC & Section 4 of the D.P. Act, 1961, merely on the possibility that the allegations and the depositions of the PW-1 corroborated by PW2, are true and correct. Although one cannot deny the emotional or mental torture that the Complainant may have undergone in the marriage, however a cursory or plausible view cannot be conclusive proof to determine the guilt of an

individual under Section 498A & Section 4 of the D.P. Act, 1961, especially to obviate malicious criminal prosecution of family members in matrimonial disputes. In this respect, we also cannot ignore that the FIR dt. 20.12.1999 was registered after the Appellant had filed the Divorce Petition under Section 13 of Hindu Marriage Act, 1955 on 06.02.1999. In consideration thereof and that the Complainant had cohabited with the Appellant only for a period of about a year, it appears that the FIR registered by the Complainant was not genuine.

12. In respect thereof, the High Court while exercising its revisionary jurisdiction ought to have examined the correctness of decision of the Trial Court in light of the material on record, which reveals nothing incriminatory against the Appellant to sustain a conviction under Section 498A IPC or Section 4 of the D.P. Act, 1961. Although we do not agree with the submission on behalf of the Appellant that the Impugned Order dt. 14.11.2018 was passed *in absentia*, however the High Court was well within its revisionary powers to discern whether an FIR and the proceedings emanating therefrom were sustainable. In all certainty, it could have saved 6 years' worth of time for the Appellant, who has endured litigation for over 20 years as of today.

13. Notwithstanding the merits of the case, we are distressed with the manner, the offences under Section 498A IPC, and

Sections 3 & 4 of the D.P. Act, 1961 are being maliciously roped in by Complainant wives, insofar as aged parents, distant relatives, married sisters living separately, are arrayed as accused, in matrimonial matters. This growing tendency to append every relative of the husband, casts serious doubt on the veracity of the allegations made by the Complainant wife or her family members, and vitiates the very objective of a protective legislation. The observations made by this Hon'ble Court in the case of ***Dara Lakshmi Narayana & Ors. v. State of Telangana & Anr.***[4] appropriately encapsulates this essence as under:

> *"25. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid*

[4] (2025) 3 SCC 735

> *unnecessary harassment of innocent family members. In the present case, appellant Nos.2 to 6, who are the members of the family of appellant No.1 have been living in different cities and have not resided in the matrimonial house of appellant No.1 and respondent No.2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them."*

14. The term "cruelty" is subject to rather cruel misuse by the parties, and cannot be established simpliciter without specific instances, to say the least. The tendency of roping these sections, without mentioning any specific dates, time or incident, weakens the case of the prosecutions, and casts serious suspicion on the viability of the version of a Complainant. We cannot ignore the missing specifics in a criminal complaint, which is the premise of invoking criminal machinery of the State. Be that as it may, we are informed that the marriage of the Appellant has already been dissolved and the divorce decree has attained finality, hence any further prosecution of the Appellant will only tantamount to an abuse of process of law.

15. We accordingly allow the Appeals and the Order dt.14.11.2018 passed by the High Court of Allahabad in Criminal Revision No. 612/2004 convicting the Appellant under Section

498A of IPC & Section 4 of D.P. Act, 1961, is set aside and the Appellant is acquitted of all the charges.

16. Pending application(s), if any, stands disposed of.

……J.
[B. V. NAGARATHNA]

……J.
[SATISH CHANDRA SHARMA]

New Delhi
May 13, 2025.