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IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE PRAMOD KUMAR AGRAWAL

ON THE 24th OF SEPTEMBER, 2026

MISC. CRIMINAL CASE No. 41505 of 2024

MOHD KALEEM AND OTHERS

Versus

THE STATE OF MP AND OTHERS

Appearance:

Shri Vivek Kumar Pandey - Advocate for the petitioners.

Shri Ravindra Shukla - Deputy Government Advocate for the respondent No.1/State.

Shri Mansoori Shakeel Ahmad - Advocate for the respondent No.2.

ORDER

This petition has been filed by the petitioners under Section 528 of B.N.S.S. for quashing of F.I.R. and consequential criminal proceedings relating to Crime No.40/2024 registered at P.S. Nohta, District Damoh (M.P.) for the offences under Section 498-A and 34 of IPC and Section 3/4 of Dowry Prohibition Act and RCT. No.160/2024 pending before J.M.F.C., District Damoh.

2 . Learned counsel for the petitioners submits that petitioner No.1, Mohammad Kalim, was married to respondent No.2, Afsana Bi, on 06.12.2020. After their marriage, they lived together and one child was born out of their wedlock. It is further submitted that a dispute arose between them as respondent No.2 used to consume tobacco/gutkha (Rajshree). When

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petitioner No.1 asked her to stop consuming the same, she got annoyed and went to her parental home. It is also submitted that when respondent No.2 did not return to the matrimonial home, then petitioner No.1 filed an application under "Muslim law for restitution of conjugal rights". Learned First Additional Principal Judge, Family Court, Jabalpur, in RCS-A No.144/2023, vide judgment dated 10.03.2026, directed respondent No.2 to live with petitioner No.1. However, despite the said order, she did not return to the matrimonial home.It is further submitted that petitioner No.1 had submitted an application before the Superintendent of Police on 11.10.2023 and, thereafter, an order was passed on 03.03.2026; however, respondent No.2 still did not return to live with petitioner No.1. It is also submitted that petitioner No.2 Kaushar Bee is married sister-in-law of respondent No.2 and she resides with her parental house and petitioner No.3 Ku. Gudiya @ Samina is unmarried sister-in-law and if the criminal case continues, their future will be spoiled. The present FIR was lodged as a counterblast on 29.01.2024, after an unexplained delay, for which no proper reason has been assigned. In support of his submissions, learned counsel for the petitioners has placed reliance upon the judgment of the Supreme Court in ***D. Lakshmi Narayana v. State of Telangana,*** passed in Criminal Revision Case Nos. 471 and 461 of 2024 decided on 13.09.2024. Therefore, it is prayed that petition be allowed.

3. Learned counsel for the respondents has submit that the petitioners harassed respondent No.2 and demanded dowry, due to which, she was compelled to leave her matrimonial home and is presently residing at her

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parental home. It is further submitted that respondent No.2 is ready and willing to live with petitioner No.1; however, owing to the threat to her life, she is not returning to her matrimonial home. Therefore, they prays for dismissal of this application.

4. Heard learned counsel for the parties and perused the record.

5. From perusal of the record, it is found that husband of respondent No.2 has filed an application under Muslim law for restitution of conjugal rights judicial separation. Thereafter, respondent No.2/wife lodged the present FIR. However, in the present case, it has not been established that the FIR was lodged on 29.01.2024 as a counterblast. No document has been placed on record to establish that, prior to registration of the FIR, notice regarding the proceedings for restitution of conjugal rights had been served upon respondent No.2 or that she had knowledge of the said proceedings initiated by her husband. Therefore, in the absence of any such material, it cannot be held that the FIR was lodged as a counterblast to the said proceedings. In the FIR, there is specific and clear allegations against the husband. So far as the submission made by the counsel for petitioners that FIR was lodged after filing the application under Section "Muslim law for restitution of conjugal rights". is concerned, the law is very clear. Merely because husband has filed an application "Muslim law for restitution of conjugal rights for judicial separation under the Muslim law, the criminal proceedings cannot be quashed. The filing of such an application does not constitute a ground for quashing the criminal proceedings.

6. As observed by the High Court Andhra Pradehs in ***Y. Sham Kumar***

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and Others Vs. State of A.P. and Another, Crl. P. No.9407/2009 and; the Hon'ble Supreme Court in the case of ***Smt. Chand Dhawan Vs. Jawahr Lal and Others, 1992 AIR 1379*** has held as under:

> *"When the allegations in the complaint prima facie constitute the offence against any or all of the respondents in the absence of materials on record to show that the continuance of the proceedings would be an abuse of the process of the court or would defeat the ends of justice, the High Court would not be justified in quashing the complaint.*

7. The Hon'ble Supreme Court in the case of ***Pratibha Vs. Rameshwari Devi and Others, 2007 AIR SCW 5933*** has held as under:

> *"Filing of a divorce petition in a Civil Court cannot be a ground to quash criminal proceedings under Section 482 of the Code as it is well settled that criminal and civil proceedings are separate and independent and the pendency of a civil proceeding cannot bring to an end a criminal proceeding even if they arise out of the same set of facts.*
>
> *....The High Court while exercising its powers under Section 482 of the Code has gone beyond the allegations made in the FIR and has acted in excess of its jurisdiction and, therefore, the High Court was not justified in quashing the FIR by going beyond the allegations made in the FIR or by relying on extraneous considerations"*

8. Thus, it is clear that the findings recorded by Family Court are not binding on civil court and vice versa. Both the cases are to be decided on their own merits. If wife maintains patience and silence with solitary intention to save her matrimonial life, then it cannot be said that it was her weakness. On the contrary, it shows her sincerity towards her marital life. If after realizing that her in-laws have gone to such an extent where reconciliation is not possible and then daughter-in-law decides to lodge an FIR complaining about cruelty meted out to her, then it cannot be said that

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said FIR is a counterblast to the petition for judicial separation under the Muslim law.

9. In this case, petitioner No.1 - Mohammad Kalim, is the husband of respondent No.2 and there is specific allegations against the husband/ Mohammad Kalim regarding cruelty and demand of dowry, therefore, offence punishable under Section 498A of IPC and 3/4 of Dowry Prohibition Act is made out against him. Therefore, **present petition is dismissed with respect to petitioner No.1.**

10. On perusal of the record, it is found that there are no specific allegations against **petitioners No.2 and 3 sisters-in-law Kaushar Bee and Ku. Gudiya @ Samina and petitioner No.4 Amina Bee mother-in-law.** The allegations levelled against them are vague, general and omnibus in nature. Consequently, the FIR and the all consequential proceedings in relation to Crime No.40/2024 registered against them at Police Station Nohta, District Damoh under Sections 498-A read with 34 of IPC and Sections 3/4 of Dowry Prohibition Act are hereby quashed.

11. In view of above, **present petition is partly allowed.**

(PRAMOD KUMAR AGRAWAL)
JUDGE

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