

proceedings in Crime No. 339 of 2019 on the file of Court of Sr. Civil Judge and JMFC, Gundlupete, Chamarajnagar, which has registered Gundlupete P.S. Cr. No. 172 of 2019 as against the appellant for offence punishable under Sections 498A, 504, 109 of Indian Penal Code, 1860 (for short, 'IPC') and Sections 3 and 4 of the Dowry Prohibition Act, 1961, against the appellant.

4. The facts, in brief, giving rise to the present appeal by way of special leave are as under:

4.1 On 19th April 2019, an FIR came to be lodged by respondent No.2 against her husband, namely, [REDACTED] and Avinash Shetty (brother of her husband), Nataraju (paternal uncle of accused No.1), Prakash (son-in-law of the paternal uncle of accused No.1) and the appellant herein.

4.2 As per the said FIR, respondent No.2/complainant got married to one [REDACTED] on 6th November 2017. It is alleged that at the time of marriage a sum or Rs.3 Lakhs, 25 grams of gold ornaments and other articles were given in dowry. It is stated by her that she lived happily for six months in her matrimonial house at Gundlapete. It is further alleged that the husband of respondent No.2, namely [REDACTED] and

accused Nso.3 and 4 have colluded with each other and have harassed respondent No.2 physically as well as mentally.

4.3 Insofar as the allegation against the appellant herein is concerned, it is alleged that prior to the marriage of respondent No.2 with [REDACTED] the present appellant was in a relationship with the said [REDACTED] which has continued even after marriage. It is further alleged that when the same was questioned, respondent No.2 was assaulted mentally and physically. It is also alleged that the appellant herein had also scolded respondent No.2/complainant in a filthy language through phone. After the conclusion of the investigation, a charge-sheet came to be filed against five accused persons on 1st August 2019.

4.4 After filing of the charge-sheet, the appellant filed a petition under Section 482 of the Code of Criminal Procedure, 1873 (for short, 'Cr.P.C.') praying for quashing of the proceedings in Crime No.339 of 2019. However, the learned Single Judge vide impugned judgment and order rejected the said petition. Hence this appeal by way of special leave.

5. We have heard Smt. K.V. Bharathi Upadhyaya, learned counsel appearing for the appellant and Shri D.L. Chidananda, learned counsel for the respondent No.1/State.

6. Smt. Upadhyaya submits that even if the allegations in the FIR or in the charge-sheet are taken at their face value, no case under Section 498A of IPC is made out against the appellant herein. She further submits that the allegations are false and fabricated as the appellant is residing 200 kms., away with her husband. Relying on the judgment of this Court in the case of ***U. Suvetha v. State by Inspector of Police and Another***¹, Ms. Upadhyaya submits that the appellant cannot be construed to be a relative within the meaning of the relatives of the husband under the purview of Section 498A of IPC. She, therefore, submits that the proceedings deserve to be quashed.

7. It is further submitted that respondent No.2 and accused No.1 have amicably settled the matter as amongst them and a decree of divorce by mutual consent has also been passed dissolving the marriage between respondent No.2 and accused No.1.

¹ (2009) 6 SCC 757 : 2009 INSC 740

8. This Court, in the case of *U. Suvetha* (supra), had an occasion to consider a question as to whether the girlfriend or a woman with whom a man has had romantic or sexual relations outside of marriage would be a “relative of the husband” for the purposes of prosecution under Section 498A of IPC.

9. This Court, after considering the earlier judgments of this Court and the dictionary meaning of a relative, observed thus:-

“**18.** By no stretch of imagination would a girlfriend or even a concubine in an etymological sense be a “relative”. The word “relative” brings within its purview a status. Such a status must be conferred either by blood or marriage or adoption. If no marriage has taken place, the question of one being relative of another would not arise.”

10. It could thus be seen that this Court has, in unequivocal terms, held that a girlfriend or even a woman with whom a man has had romantic or sexual relations outside of marriage could not be construed to be a relative.

11. Apart from that for bringing a case under Section 498A of IPC, the material placed on record should show that the ill

treatment was meted out by the husband or a relative, which is connected with non-fulfilment of demand of dowry.

12. Taking the allegations at their face value in the FIR or even in the entire material placed in the charge-sheet, it will show that there is no averment or material to show that the appellant was in any way concerned with causing harassment to respondent No.2 on account of non-fulfilment of demand of dowry.

13. In that view of the matter, we are of the considered view that the continuation of the criminal proceedings against the appellant herein would be nothing else but an abuse of process of law. We find that the present appeal deserves to be allowed.

14. In the result, we pass the following order:

- (i) The appeal is accordingly allowed;
- (ii) The judgment and order of the High Court dated 12th April 2021 is quashed and set aside; and
- (iii) The proceedings in Crime No.339 of 2019 on the file of the Senior Civil Judge and JMFC, Gundlupete for the offences punishable under Sections 498-A, 504,

109 of IPC and Sections 3 and 4 of the Dowry Prohibition Act, are quashed and set aside qua the appellant herein.

14. Pending application(s), if any, shall stand disposed of.

.....**J.**
(B.R. GAVAI)

.....**J.**
(K.V. VISWANATHAN)

NEW DELHI;
DECEMBER 04, 2024.