



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S. B. Criminal Miscellaneous Petition No. 89/2020

Alok Kumar Chaturvedi S/o Shri Ram Sudhakar Chaturvedi, Aged
About 28 Years, R/o House No.18, Raghunathpuri, Sainik Marg,
Kalwar, Jhotwara, Jaipur, Tehsil & District-Jaipur (Raj.)

-----Petitioner

Versus

1. State of Rajasthan through its PP.
-----Respondent
2. Smt. Shipra Tiwari W/o Alok Kumar Chaturvedi, D/o Shri
Sunil Tiwari, Aged About 27 years, R/o House No.126,
Barkat Nagar, Tonk Phatak, Jaipur, Tehsil & District-Jaipur.
-----Complainant-Respondent

For Petitioner	:	Mr. Ambrish Vashishtha Advocate with Ms. Renu Pachouri Advocate.
For Respondent No. 1	:	Mr. Manvendra Singh Shekhawat Public Prosecutor.
Respondent No. 2	:	Mr. Manvendra Singh Choudhary Advocate with Mr. Himanshu Advocate.

HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

RESERVED ON	::	07.11.2025
PRONOUNCED ON	::	13.11.2025

1. By way of filing present criminal misc. petition, the
petitioner has prayed for quashing of criminal proceedings in Case
No. 425/2018 titled as State Vs. Alok Kumar Chaturvedi pending
before the Court of Additional Civil Judge and Judicial Magistrate
No.2, Jaipur District, Jaipur (hereinafter to be referred as 'the trial
court').
2. It is stated that the petitioner performed marriage with
Respondent no. 2-complainant in accordance with Hindu rites and



ceremonies on 24.11.2012. However, soon after marriage, marital discord came to surface and they decided to break the marital tie. Accordingly, one compromise was executed on 23.03.2013, which was signed by both the parties as well as by the witnesses and the same was also got attested through Notary Public. As per the terms of the compromise, Respondent No. 2 was having physical relations with some other person, therefore, it was not possible to continue the marital tie and both the parties to the marriage decided to get divorce by mutual consent. As per clauses of the compromise, it was accepted by Respondent No. 2-complainant that the petitioner had returned all the *stridhan* to Respondent No. 2-complainant and no article with regard to her *stridhan* was in possession of the petitioner. Further, she would not lodge any criminal case against the petitioner or his family members under Sections 498A and 406 of the Indian Penal Code (hereinafter to be referred as 'IPC') or even complaint under the provisions of the Protection of Women from Domestic Violence Act, 2005; and soon after completion of one year from the date of marriage, the petitioner as well as Respondent No. 2-complainant would file a joint petition for getting divorce by mutual consent and Respondent No. 2-complainant has also received Rs. 3,00,000/- as one time lump sum alimony from the petitioner and she would not claim any maintenance in future.

3. It is further submitted that as per the provisions of the Hindu Marriage Act, 1955 (hereinafter to be referred as 'the Act of 1955'), petition for getting decree of divorce even by mutual consent cannot be filed within a period of one year from the date of marriage. Hence, pursuant to aforesaid compromise dated



23.03.2013, after completion of one year from the date of marriage, the petitioner asked Respondent No. 2 to file a joint petition under Section 13B of the Act of 1955 as earlier agreed between the parties. However, Respondent No. 2 refused to do so. Under these circumstances, finding no other alternative, the petitioner filed petition seeking decree of divorce by dissolving the marriage on 07.04.2014 before Family Court No. 2, Jaipur. Notices of divorce petition filed by the petitioner were sent to Respondent No.2 on 14.05.2014. However, she refused to accept the notice and accordingly, report was made by the process server of the Family Court concerned. After having knowledge of the fact that the petitioner has filed divorce petition against the complainant, she submitted a complaint before the trial court which was sent to Police under Section 156(3) Cr.P.C. and on the basis of the complaint, FIR No. 139/2014 was registered at Police Station Mahila Thana, District Jaipur City (East) for offences punishable under Sections 498A, 406, 323,, 341 and 120B IPC against the petitioner and his entire family on 12.06.2014, wherein she levelled allegations of committing cruelty to her, demand of dowry. It was also alleged in the FIR that the petitioner got the compromise executed by misrepresenting the complainant and her signatures were obtained on blank papers. After completion of investigation, the investigating officer came to conclusion that no offence has been committed by other family members of the petitioner. However, offences punishable under Sections 498A and 406 IPC were prima facie shown to have been made out against the petitioner and his sister, Smt. Mamta Chaturvedi.



4. It is further submitted that sister of the petitioner, Smt. Mamta Chaturvedi filed S. B. Criminal Misc. Petition No. 1613/2016 before this Court, which was allowed by Co-ordinate Bench of this Court vide judgment dated 06.09.2017 and criminal proceedings qua sister of the petitioner, Smt. Mamta Chaturvedi pursuant to FIR No. 139/2014 were quashed and she was discharged of all the allegations. The above judgment dated 06.09.2017 passed by Co-ordinate Bench of this Court was further challenged by Respondent No.2-complainant by way of filing Petition for Special Leave to Appeal (Crl.) No. 1222/2018 and the same was dismissed by the Hon'ble Supreme Court vide order dated 08.03.2019.

5. Learned counsel for the petitioner submits that the petition seeking decree of divorce was opposed by Respondent No.2-complainant by way of filing reply, however, contents of the same do not support the allegations levelled by her in FIR, whereas such reply was filed by the complainant subsequent to lodging FIR against the petitioner. There is no allegation in the entire reply to the divorce petition with regard to causing any cruelty upon Respondent No.2-complainant either by the petitioner or his family member, nor were there any allegations with regard to demand of dowry. Thereafter, subsequent to filing reply to divorce petition, Respondent No.2-complainant filed written arguments in which she stated that the petitioner could not be proved to be a good husband. Hence, she gave her 'no objection' for passing decree of divorce. Accordingly, vide judgment and decree dated 07.06.2019 passed by the Family Court No. 2, Jaipur, whereby marriage of the petitioner and



Respondent No.2 solemnised on 24.11.2012 was dissolved and decree of divorce was passed in favour of the petitioner. It is submitted that although decree has not been passed under Section 13B of the Act of 1955, yet on account of expressing no objection for passing of decree of divorce by Respondent No.2, it can be considered that decree of divorce has been passed by mutual consent of the parties.

6. Learned counsel for the petitioner submits that no objection for passing decree of divorce was tendered by Respondent No.2-complainant only for the reason that she wanted to perform remarriage with another person and soon after passing of decree of divorce, on 19.11.2019, Respondent No.2-complainant has performed remarriage with another person and she is living happily with him. However, in the meanwhile, trial court took cognizance against the petitioner for offences punishable under Sections 498A and 406 IPC and even charges have also been framed against the petitioner for commission of such offences. However, vide order dated 19.01.2022, interim order was passed by this Court for staying the further proceedings in the criminal case pending before the trial court.

7. While pressing his challenge to the criminal proceedings, learned counsel for the petitioner submits that the allegations levelled in FIR are absolutely contrary to the compromise earlier executed between the parties on 23.03.2013. Even otherwise, the allegations are quite vague, general and omnibus. Learned counsel submits that even reply to the divorce petition filed by the complainant does not support the allegations and more particularly, FIR was lodged by the complainant soon



after having knowledge of filing of divorce petition by the petitioner, as a counter blast to the action taken by the petitioner and with a view to harass, victimize as also wreak vengeance against the petitioner. Now, when decree of divorce has been passed on the basis of no objection given by the complainant and further that the complainant has performed remarriage with other person, prosecuting the petitioner pursuant to FIR in question in the criminal proceedings pending before the trial court is causing grave prejudice and miscarriage of justice to the petitioner.

8. On the other hand, the petition was opposed by learned Public Prosecutor and learned counsel for Respondent No. 2-complainant by submitting that at the stage when charges have been framed against the petitioner, the remedy available to him was to file a revision petition against the order framing charges against the petitioner. Hence, instant petition under Section 482 Cr.P.C. is not maintainable. It was further submitted that the allegations in FIR are quite specific against the petitioner and as it has been mentioned in FIR that signatures of the complainant were obtained on blank papers, therefore, terms of such alleged compromise on such blank papers would not bind Respondent No.2-complainant. Learned counsel for Respondent No.2-complainant submitted that merely the fact that decree of divorce has been passed and Respondent No.2 has further performed remarriage, would not absolve the petitioner from the charges levelled against him. Hence, learned counsel for the respondents requested that instant criminal misc. petition may be dismissed.

9. I have heard learned counsel for the parties and carefully examined the material on record.



10. Series of facts mentioned in the petition as well as argued before the Court would make it clear that the dispute has arisen out of marital discord. Even if, on raising dispute by learned counsel for Respondent No. 2-complainant, the compromise earlier entered into between the parties is ignored for a moment, then also, it has not been disputed by learned counsel for Respondent No.2-complainant that the petitioner and the complainant were residing separately since March, 2013 and FIR was lodged by the complainant after having knowledge of filing of divorce petition by the petitioner. Thus, not lodging FIR for a period of 20 months from the date of desertion and lodging the same immediately after receiving information with regard to instituting petition for obtaining decree of divorce by the petitioner, would obviously raises a cloud of suspicion over the bona fides of the complainant. Thus, it can be safely observed that FIR was lodged in revengeful manner to retaliate the proceedings of divorce initiated by the petitioner and as a matter of counter blast.

11. More so, reply to the divorce petition was filed by the complainant after lodging of FIR. However, bare perusal of reply to divorce petition would not reflect anything which supports the allegations of committing cruelty or demand of dowry as levelled in FIR, nor is there anything in the entire reply to divorce petition which reveals that even the alleged dowry articles were in possession of the petitioner and not returned by him.

12. Apart from above, it is also significant to note that the complainant at the one hand filed reply to divorce petition to contest the petition, however, during the pendency of the proceedings of divorce petition, she expressed her no objection by



submitting written submissions for passing a decree of divorce in favour of the petitioner and soon after passing of decree of divorce in favour of the petitioner, she performed remarriage with another person. Thus, the aforesaid facts are sufficient to infer that the proceedings initiated by Respondent No. 2-complainant were malicious in nature, and due to ulterior motive, frivolous allegations have been levelled against the petitioner.

13. As regards the objection raised by learned counsel for the respondents that after framing of the charges, petition for quashing criminal proceedings under Section 482 Cr.P.C. is not maintainable, it is sufficient to observe that similar question has been dealt with by the Hon'ble Supreme Court in the case of **Mukesh & Others Vs. The State of Uttar Pradesh & Others (Criminal Appeal arising out of Special Leave Petition (Crl.) No. 12354/2024 decided on 29.11.2024)**, where, in Para No.

6, 7 and 8 of the report, it was held as under:

"6. Learned counsel representing the State of Uttar Pradesh submits that the High Court order does not call for interference as the appellants have an efficacious remedy to challenge the order framing charge by filing a revision application. We are shocked to note the approach adopted by the State Government. What is suggested by the State Government is that once charge-sheet is filed, accused cannot do anything except to wait till the charge is framed and thereafter, can file a revision application to challenge the order of framing charge.

7. At this stage, learned counsel appearing for the State submits that possibly because a remedy of filing revision application against the order framing charge was available, the High Court has dismissed the petition. We do not see any such reason forthcoming from the impugned order as the petition is dismissed as infructuous without mentioning how it has become infructuous.

8. It is true that the appellants can apply for discharge. However, the scope of application for discharge is completely different from the scope of a petition for quashing the criminal proceedings. While arguing a case for discharge, the appellants will not be in a position to rely upon any document which is not the part of charge sheet. The ground of abuse of process of law will not be available while arguing discharge application. However, in a petition for quashing either under



Section 482 of the Code of Criminal Procedure, 1973 or under Article 226 of the Constitution of India, a wider challenge is available including a challenge on the ground of abuse of process of law. In such proceedings, the accused can rely upon documents which are not the part of the charge-sheet. Therefore, we reject the submission made by learned counsel appearing for the State. Though the submissions made on behalf of the State have no basis, we have dealt with the same elaborately to ensure that the same are not urged in a similar case."

14. Thus, in the light of clear observations recorded by the Hon'ble Supreme Court in the case of **Mukesh & Others (supra)**, objection raised by learned counsel for the respondents with regard to maintainability of criminal misc. petition under Section 482 Cr.P.C. after framing of the charges cannot be sustained and the same is hereby overruled.

15. In the case of **Naushey Ali & Others Vs. State of Uttar Pradesh & Another, (2025) 4 SCC 78**, the Hon'ble Supreme Court had held that while considering the case of quashing of criminal proceedings under Section 482 Cr.P.C., this Court can also examine the defence of the accused for the purpose of examining the truth and tenability of the allegations levelled in FIR.

16. In the case of **Dara Lakshmi Narayana & Others Vs. State of Telangana & Another, (2025) 3 SCC 735**, the Hon'ble Supreme Court was considering quashing of the proceedings in respect of FIR lodged under Section 498A IPC which was lodged after issuance of legal notice by the husband for seeking divorce. The Hon'ble Supreme Court opined that FIR lodged by the wife was not a genuine complaint, rather it was a retaliatory measure intended to settle scores with the husband and his family members. The Hon'ble Apex Court also observed that in recent



years, there have been a notable increase 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. The practice of lodging FIR as a counter blast to the petition for dissolution of marriage sought by the husband against the wife was deprecated by the Hon'ble Supreme Court and by referring to the guidelines laid down in the earlier judgments, FIR and criminal proceedings including charge sheet and pending trial in that case was quashed by the Hon'ble Supreme Court. Para No. 23, 30, 31, 32 and 34 of the report, being relevant, are quoted hereinbelow:

"23. Given the facts of this case and in view of the timing and context of the FIR, we find that Respondent 2 left the matrimonial house on 3-10-2021 after quarrelling with Appellant 1 with respect to her interactions with a third person in their marriage. Later she came back to her matrimonial house assuring to have a cordial relationship with Appellant 1. However, she again left the matrimonial house. When Appellant 1 issued a legal notice seeking divorce on 13-12-2021, the present FIR came to be lodged on 1-2-2022 by Respondent 2. Therefore, we are of the opinion that the FIR filed by Respondent 2 is not a genuine complaint rather it is a retaliatory measure intended to settle scores with Appellant 1 and his family members.

30. The inclusion of Section 498-A 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 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 498-A 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 scrutinised, 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 498-A 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.

31. *We are not, for a moment, stating that any woman who has suffered cruelty in terms of what has been contemplated under Section 498-A IPC should remain silent and forbear herself from making a complaint or initiating any criminal proceeding. That is not the intention of our aforesaid observations but we should not encourage a case like as in the present one, where as a counterblast to the petition for dissolution of marriage sought by the first appellant, husband of the second respondent herein, a complaint under Section 498-A IPC is lodged by the latter. In fact, the insertion of the said provision is meant mainly for the protection of a woman who is subjected to cruelty in the matrimonial home primarily due to an unlawful demand for any property or valuable security in the form of dowry. However, sometimes it is misused as in the present case.*

32. *In the above context, this Court in G.V. Rao v. L.H.V. Prasad⁴ (2000) 3 SCC 693 : 2000 SCC (Cri) 733 observed as follows: (SCC p. 698, para 12)*

"12. There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts."

34. *We, therefore, are of the opinion that the impugned FIR No. 82 of 2022 filed by Respondent 2 was initiated with ulterior motives to settle personal scores and grudges against Appellant 1 and his family members i.e. Appellants 2 to 6 herein. Hence, the present case at hand falls within Category (7) of illustrative parameters highlighted in Bhajan Lal³ 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426]. Therefore, the High Court, in the present case, erred in not exercising the powers available to it under Section 482 CrPC and thereby failed to prevent abuse of the Court's process by continuing the criminal prosecution against the appellants."*

17. In the light of above discussion and after analysing the facts of the case as well as the decisions of the Hon'ble Supreme Court referred to hereinabove, this Court is of the considered view





that in the instant case, criminal proceedings have been instituted by Respondent No. 2-complainant in order to retaliate and counter blast the proceedings for divorce initiated by the petitioner. Reply to divorce petition also does not support the allegations levelled by Respondent No. 2-complainant in FIR and since FIR has been lodged maliciously in order to wreak vengeance, therefore, this is a fit case to exercise inherent jurisdiction under Section 482 Cr.P.C.

18. Accordingly, instant criminal misc. petition is allowed and proceedings of Criminal Case No. 425/2018 titled as State Vs. Alok Kumar Chaturvedi pending before the Court of Additional Civil Judge and Judicial Magistrate No. 2, Jaipur District, Jaipur are hereby quashed and set aside and the petitioner is discharged of all the charges.

19. Pending applications, if any, stand disposed of.

(ANAND SHARMA),J

MANOJ NARWANI /