



2025:DHC:5666



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

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*Reserved on: 22nd April, 2025
Pronounced on: 28th June, 2025*

+ **W.P.(CRL) 720/2018, CRL.M.A. 4378/2018, CRL.M.A. 4379/2018**

1.



2.



.....Petitioners

Through: Mr. Salman Khurshid, Senior Advocate with Mrs. Naghma Imtiaz, Mr. Ahmed Zargham, Mr. Saif Naseem, Ms. Maria Mansuri and Ms. Sidra Khan, Advocates.

Versus

1. **THE STATE NCT OF DELHI**

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2.



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.....Respondents

Through: Mr. Rahul Tyagi, ASC for State.
Mr. Sumant De and Mr. Rohit Khurana, Advocates for R-2.

+ **W.P.(CRL) 721/2018, CRL.M.A. 4392-93/2018 & 4863/2018**



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CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The aforesaid two Writ Petitions have been filed on behalf of the Petitioners, who are father-in-law and mother-in-law of the Complainant/ Respondent No.2 [REDACTED], under *Article 226 of the Constitution of India* read with *Section 482 Cr.P.C.* to quash the Charge-Sheet filed against them in **FIR No.154/2015 under Section 498A/323/504/506 of Indian Penal Code, 1860 and Section 3 & 4 Dowry Prohibition Act, 1961** Police Station Gautam Budh Nagar, U.P. as well as the **Complaint Case No.1430/2016 under Sections 18/19/20/21/22 of Protection of Women against Domestic Violence Act, 2005** pending before the Court of learned M.M, Delhi.

2. The ***brief facts are*** that the Petitioner No.1 Brig. Dinesh Khatri, aged 67 years is an alumni of National Defence Academy, Pune. He is the second generation Army Officer and has served the Indian Army for about 35 years and got retired in February, 2007 from the prestigious rank of Brigadier. He is a Mechanical Engineer with Post graduation in Armament Engineering.

3. Petitioner No.2 Anita Khatri, aged 61 years is the wife of Petitioner No.1 Brig. Dinesh Khatri. She is a first Class M.Sc. in Home Science in Foods and Nutrition from M.S. University, Baroda, but chose to be a homemaker despite her academic credentials and qualifications. She is



exemplary in performing her duties as wife, mother and a grandmother. Both the Petitioners are residing in Pune, Maharashtra.

4. The ***brief background of the case*** is that [REDACTED], aged 38 years is the son of the Petitioners and an Officer in the Merchant Navy for the last 16 years. He is a graduate of Nautical Sciences and has grown up in Army environment with great human qualities and values.

5. On 25.10.2007, [REDACTED] got married to Respondent No.2 [REDACTED] according to Hindu customs and rites at Gautam Budh Nagar, U.P. After the marriage, the couple went for their honeymoon but after their return, the behaviour of Respondent No.2 was found to be very strange. She used to keep herself locked in the house and did not even try to communicate with her in-laws. The Petitioners supported her in her interest in books and Petitioner No.1 also got her a job as a School teacher so that she could enjoy what she likes.

6. Suddenly, the Respondent No.2 told the Petitioners about leaving her job and when they asked about the reason, she replied that the school staff was conspiring against her and putting drugs in her tea. The Petitioners felt that it was something more in the nature of a mental disorder.

7. On 30.08.2008, one son named [REDACTED] was born to Respondent No.2 and their son, [REDACTED]. It is claimed that during the entire period of her pregnancy, the Petitioner and their entire family took good care of Respondent No.2. They assumed that she was suffering from mental depression and disturbance on account of her pregnancy for which reason only, she has left her job. However, the actual reason was her bad behaviour for which the School Administration time and again gave warnings to her and finally removed her from the job and also asked him to pay a penalty or



else they would file a case against her. The Petitioner No.1 tried his best to resolve the matter so as to protect the respect of Respondent No.2.

8. The Petitioners have submitted that the behaviour of Respondent No.2 was getting bad to worse day by day as she was becoming more aggressive and uncontrollable even against the child. Because of her such behaviour, they consulted many Doctors who consistently opined that the behaviour of Respondent No.2 was not normal and that she was in dire need of treatment. Therefore, the Respondent No.2 was regularly treated in Ruby Hall Hospital, Pune for the period from 2008 to 2014.

9. [REDACTED] many a times, asked the parents of Respondent No.2 if she was suffering from mental disorder even before marriage, to which they always answered in negative. However, Respondent No.2 herself admitted that she had been taking the same medicines since before her marriage. The factum of the *violent psychotic fits* from which Respondent No.2 was suffering and for which she was undergoing treatment, was concealed from the Petitioners.

10. The consistent opinion of the Doctors about Respondent No.2 was that she was suffering from *Bipolar Maniac Disorder* and that she needed medical treatment for her entire life. The Doctors also advised her to take her medicines regularly and to follow the instructions. However, Respondent No.2 was not serious about her treatment and kept neglecting her medicines. The Doctors tried to ask about the medical history of Respondent No.2 from her parents, but they kept on denying and for these reasons the disorder of Respondent No.2 has become incurable.

11. *In January 2013*, father of Respondent No.2 wrote an email to father of Petitioner No.1 confessing his guilt and unconditionally accepted that



what he has done is unpardonable and against the repute of the Petitioners and the family members.

12. *In October, 2013* while the son of Petitioners was outstation on duty, the Respondent No.2 acted with extreme aggression against the Petitioners and their staff in their home in Pune. Consequently, mother of Respondent No.2 who works in a school, took leave and came to help. As a last resort, Respondent No.2 was taken to Noida with the minor child because of which the child missed his school for next one month.

13. *In November, 2013* [REDACTED] under tremendous stress for the safety and security of the child and his family, went to the Respondent's home in Noida to diffuse and discuss the situation. He finally travelled back with Respondent No.2 and their son to Pune, after which the Respondent No.2 gave an undertaking in writing that she would follow the Psychiatrist's advise and manage her behaviour.

14. *In March, 2014* the family of Petitioners went through an episode of extremely violent and aggressive behaviour of Respondent No.2 who started beating the child mercilessly. When the Petitioners tried to intervene, not only did she physically assault them but also threatened to make false complaints and cases against them. She further threatened that she had the capability to make them spend their entire life in Police Station and Court. Finding no other alternative, the father of Respondent No.2 was called who after spending three days in the matrimonial home in Pune, left with the Respondent to Noida leaving their child behind.

15. The Respondent No.2 who is a holder of Masters Degree in Computer Application, enrolled herself in Computer Application Course and took up jobs at her parental home in Noida. During this entire period, the son of the



Petitioners supported her emotionally as well as financially. However, in return, he received more demands and threats of misusing pro women laws to harass and intimidate him.

16. In January, 2015 tired by the aggression and constant threats of filing Complaints and of committing suicide, [REDACTED] filed a Petition for divorce under Section 13(1) (iii) and 1(a) of the HMA, 1955, which also included a prayer for custody of the child in the Family Court, Pune.

17. In retaliation to the aforesaid Petition, Respondent No.2 and her parents filed a **Complaint dated 26.12.2015** with **Women's Police Station Noida under Section 498-A, 323, 504, 506 IPC and Section 3 & 4 Dowry Prohibition Act, 1961** against her husband as well as the Petitioners including their married daughter living in Hyderabad for the past six years in her matrimonial home. **FIR No.154/2015 was registered and after investigations the Chargesheet dated 20.06.2015** was submitted against the Petitioners and Ankur Khatri, but it was found that there was no prima facie case against the daughter of the Petitioners.

18. On 17.12.2015, the **Respondent No.2** filed a **Petition HMA Case No.740/2015 under Section 9 HMA, 1955** for Restitution of Conjugal Rights, at Family Court, Gautam Budh Nagar.

19. In April, 2016, she also filed a **Complaint No.107/2016 under Section 125 Cr.P.C.** in the Court of Principal Judge, Family Court, Gautam Budh Nagar, U.P.

20. The Respondent No.2, in furtherance of her malafide intentions to further harass the Petitioners, filed **another Complaint No.1430/2016 under Section 128/19/20 and 21 of the Protection of Women from Domestic Violence Act, 2005** before the learned Civil Judge, Gautam BudhNagar, U.P



demanding compensation from the husband as well as the present Petitioners.

21. *A Transfer Petition (C) No.1987/2015* was filed by the Respondent No.2 before the Supreme Court on 16.09.2016 seeking transfer of the case to the Court of Noida, U.P. *The matrimonial case pending before the Pune Court was transferred to the Family Court, Delhi*, and the Transfer Petition was disposed of accordingly.

22.  also filed Transfer Petitions in the Supreme Court on 16.09.2016 seeking transfer of the Criminal Case under Section 498A as well as the Maintenance Petition and the Petition under Domestic Violence Act, which was allowed on 16.12.2016 and all the cases were transferred to Family Court, Delhi.

23. Since the FIR had been registered at Gautam Budh Nagar, U.P, the **Chargesheet was filed in FIR No.154/2015 before the Chief Judicial Magistrate Gautam Budh Nagar**, who took the Cognizance *vide* Order dated 18.07.2016 against the Petitioners as well as their son Ankur Khatri. This case also got transferred to CMM, Delhi.

24. ***The Petitioners have sought the quashing of the Chargesheet under Section 498A IPC and Section 3 & 4 of Dowry Prohibition Act as well as the Petition under Domestic Violence Act on the grounds*** that the Petitioners are respectable members of the Society and have no criminal antecedents. The Petitioner No.2 is suffering from diabetes and other associated ailments. There are no specific allegations and materials of definite nature against the Petitioners who have been unnecessarily roped in.

25. Reliance is placed on *G.V. Rao vs. L.H.V. Prasad*, (2000) 3 SCC 693 and *Geeta Mehrotra vs. State of U.P.*, (2012) 10 SCC 741, wherein it has



been noted that where an FIR is not found to disclose the material which could be held to constitute an offence but makes only general allegations in regard to physical and mental torture without mentioning even a single incident against them, then such criminal proceedings are liable to be quashed. It was also noted that where a Complaint relates to matrimonial dispute, where all the members are roped in irrespective of their role, such Petition is liable to be quashed.

26. It is asserted that the FIR has been filed immediately after receiving Notice of the Divorce Petition filed by the husband of Respondent No.2 and is a counterblast.

27. It is further asserted that Respondent No.2 has been living separately since March, 2014 and there is no question of giving beatings by the Petitioners. The relationship between Respondent No.2 and her husband had strained since 2013, so much so that their son had filed the Divorce Petition way back in January, 2015 since he was not interested in residing with Respondent No.2. It is difficult to believe that despite this background, allegations of demand for dowry on 06.12.2015 coupled with criminal intimidation, has been made by Respondent No.2. The allegations so made are vague and have been made with an ulterior motive to harass the Petitioners, which is nothing but misuse of provisions of IPC.

28. In the case of Preeti Gupta vs. State of Jharkhand, (2010) 7 SCC 667 it was observed that it was a matter of common experience that the Complaints under Section 498A IPC are filed in the heat of the moment over trivial issues without proper deliberation. It was further observed that if filing of the Complaint and its consequences are not visualized properly,



then such Complaints can lead to insurmountable harassment, agony and pain to the accused persons and their close relations.

29. Reliance has also been placed on the case of R.P. Kapoor vs. State of Punjab, AIR 1960 SC 866, wherein it was observed that if the allegations in the FIR or Complaint taken at their face value and accepted in their entirety, do not constitute an offence alleged and also in the cases where the allegations may constitute an offence, but there is no legal evidence to support such allegations, the High Court can in exercise of inherent powers quash such criminal proceedings.

30. Similar observations have been made in the case of Nagawwa vs. Veeranna Shivalingappa Konjalgi, (1976) 3 SCC 736.

31. It is further submitted that in order to avoid the misuse of the provisions as in the present case, the High Court must exercise their power under Section 482 Cr.P.C to quash the proceedings, as has been held in the case of State of Karnataka vs. L. Munniswamy, (1977) 2 SCC 699.

32. It is, therefore, submitted that the **Chargesheet No.64/2016** under Section 498A/323/504/506 IPC and Section 3 & 4 Dowry Prohibition Act, in respect of FIR No.**No.154/2015** as well as the **Petition No.1430/2016** under the provisions of Domestic Violence Act, be quashed.

33. The **Respondent No.2** [REDACTED] in her Counter-Affidavit has taken a preliminary objection that the captioned Petitions are unsubstantiated, unjustified, self-serving and are factually incorrect, based on entirely wrong premise and is nothing but a gross abuse of process of law. It is claimed that the Petitioners have not approached the Court with clean hands. They have not even placed on record the necessary documents to seek the quashing of the Chargesheet as well as the Petition.



34. ***The dismissal of the present Petitions is sought on the grounds*** that there are no cogent and plausible reasons given for this Court to exercise its inherent powers under Section 482 Cr.P.C. ***Secondly***, a similar Petition under Section 482 Cr.P.C *vide* Writ Petition No.8044/2016 was filed before the High Court of Judicature at Allahabad for quashing of FIR No.154/2015, but the same was rejected *vide* Order dated 13.04.2016. ***Thirdly***, the Chargesheet accompanied with the statements and documents annexed therein, amply and holistically substantiate and establish all the charges against the Petitioners, therefore, no interference is warranted. ***Fourthly***, after filing of the Chargesheet, the Court has taken Cognizance of the offences and issued summons to the accused persons after due consideration of the facts, details, allegations, statements of witnesses and the documentary evidence. There is no ground for quashing of the FIR and the Petition.

35. It is next contended that no harm or prejudice would be caused to the Petitioners upon continuation of the criminal proceedings as right to dignified silence, presumption of innocence would still be available to them. The guilt of the Petitioners has been prima facie confirmed after investigation through Chargesheet, which is sufficient justification for continuation of trial.

36. It is further submitted that at the time of marriage on 25.10.2007, the parents of Respondent No.2 had spent a sum of Rs.25 lakhs on the wedding expenses, gifts and one Hyundai Verna car, but the Petitioners were not satisfied and kept on making more demand and demanded a Pajero Car and other expensive articles from Respondent No.2. On their demands not being fulfilled, they started taunting, mocking, bullying and insulting the



Respondent on one pretext or the other. She was tortured, humiliated and harassed throughout for dowry and the conduct continued even during her pregnancy. The Petitioners even took her to the Doctor for determination of the sex of the foetus. After it was confirmed that it was a male child in her womb, their attempt to get it aborted came to an end. Ultimately she gave birth to a son on 30.08.2008.

37. It is asserted that the Petitioners are of greedy nature. Initially most of their demands were met by the parents of the Respondent No.2, but when they stopped succumbing to unlawful demands of the Petitioners and their family members, they became aggressive and frequently misbehaved and maltreated Respondent No.2. The Petitioners started ignoring, neglecting and insulting her for one reason or the other and even did not allow any outsider/visitor to enter her room. They gradually started keeping the child away from her, one pretext or the other. She had no freedom to speak to anyone including her parents on phone and whenever she did, it had to be in the presence of the Petitioners.

38. *During the period of 2009 till 2012*, while she was residing in her matrimonial home, she was subjected to humiliation, torture and disrespect every day and was not given money for her basic requirements. As and when she visited her parents at Noida, they would give her enough money for her personal requirement. After 2010, her mother started regularly transferring funds to the joint account with Respondent No.2 for her needs.

39. It is further submitted that though *Petitioner No.1 did visit the parents of Respondent No.2 at Noida couple of times*, during his visit to Delhi for personal work till 2013, but it used to be a nightmare for her parents as he would insult and humiliate them, especially *the mother of the Respondent*.



Respondent No.2's parents visited the Petitioner's place at Pune thrice till 2013 to discharge their social obligations. They visited in September, 2011 to attend the Petitioner's daughter's wedding and even after spending Rs.2.5 lakhs on jewellery and other gifts including cash for Petitioner's daughter, they were ignored, insulted and humiliated.

40. Again, her parents went to Pune in December, 2012 after their son's wedding was informally fixed for April, 2013. This time too they were humiliated and insulted. Finding the environment stifling in the matrimonial home of Respondent No. 2, the parents felt extreme pain about their daughter facing deep animosity and insult at the hands of the Petitioners.

41. Once Respondent No.2 scolded her badly and hit her, when her son was around 4 years old. After this incident, seeing their plan to grab her son was not materializing, they hatched a plan to send her to her parent's place. It was in October, 2013 that Petitioners compelled her parents to come to Pune and take her to Noida. Faced with the disrespect by Petitioner No.1, her parents were forced to take her back. They tried to do their best to take back the child who went with them as he did not agree to leave Respondent No.2.

42. On 10.11.2013, [REDACTED] came to her parental home in Noida to take back the child alone, but when his plan did not succeed, he grudgingly took Respondent No. 2 to Pune to her matrimonial home where she was again subjected to same humiliation, torture physically as well as mentally. There was a short lived reprieve for Respondent No.2 and her parents.

43. In March, 2014 father of Respondent No.2 was called by Petitioner No.1 to Pune and was again humiliated and compelled to take Respondent



No.2 back to Noida. Thereafter, she has never been allowed to join the matrimonial home at Pune.

44. [REDACTED] visited Noida between 23rd to 26th April, 2014 and stayed in her parental home and gave her the assurance that he would settle the matter and the things would normalize. In the next year and a half, Petitioner's son, [REDACTED] again came for spending leave and arranged for the Respondent to visit various places in July 2014, November, 2014 and May, 2015, but he never took her back to the matrimonial home. He kept assuring that he was trying for a shore job in India and that when it would materialize he would take her back. Eventually, she received a Notice of Divorce Petition on 17.11.2015, when she realized that [REDACTED] had been cheating her by giving time to the child to brainwash him against his own mother.

45. *In November, 2014* Respondent was taken to Pune but was brought back after a couple of days to her parental home by the husband of the Respondent No. 2 and his parents, when a fresh demand of Rs.11 lakh was made. Since then, she has been staying with her parents in Noida. They did not let her talk to her son. From sheer desperation, she had travelled to Pune on 30.09.2015 to have a glance of her son. The mother-in-law opened the door but they did not permit her to talk to the child or to enter the matrimonial home. Left with no option, she spent the night in the neighbourhood and returned to Delhi/Noida on the next day.

46. Thereafter *on 05.12.2015* the Petitioners along with Ankur Khatri, visited her parental home and tried to force her to agree for a compromise for divorce, which she vehemently opposed. Again on 06.12.2015, the husband of Respondent No.2 along with his parents and son visited the



Respondent and coerced her to agree to the Divorce. Eventually, they snatched the crying child from Respondent No.2 and took him away. They even threatened to get [REDACTED] remarried. She made the Complaint dated 17.12.2015 at Woman Police Station, which resulted in registration of FIR and filing of the Chargesheet.

47. A similar attempt for quashing of FIR was made by filing a Writ Petition at High Court of Judicature at Allahabad, but the same was dismissed *vide* Order dated 13.04.2016.

48. It is submitted that she also filed a Petition under Section 9 of HMA, 1955 for Restitution of Conjugal Rights. Eventually, on filing of Transfer Petitions either by her or by the [REDACTED], all their litigations have been transferred to Delhi.

49. It is further contended that after the Cognizance was taken on the Chargesheet on 20.06.2015, the Order was not challenged till 2018 i.e. for more than one and a half years. The present Petition thus, suffers from delay and laches. Furthermore, there is an alternate remedy with the Petitioners to seek their discharge at the time of framing of Charge. It is submitted that the two petitions are an abuse of the process of Court and are liable to be dismissed.

50. ***In the end***, it is contended that the Petitioners have stated concocted and incorrect facts and fallaciously made assertions in respect of the mental status of the Respondent without any cogent reason. Reliance has been placed on Som Mittal vs. Govt. of Karnataka, (2008) 3 SCC 753, wherein it has been held that the High Court would not be justified in embarking upon an inquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the Complaint.



51. Reliance has also been placed on State of Bihar vs. Murad Ali Khan, 1989 Cr.L.J. 1005, wherein the Apex Court had noted that the powers under Section 482 Cr.P.C. must be exercised sparingly and the High Court should not embark upon the correctness of the allegations in the Complaint and analyse the evidence there.

52. Similarly, reliance is placed on the State of Haryana and Ors. vs. Bhajan Lal and Ors, 1992 Cr.L.J 527; Central Bureau of Investigation vs. Ravi Shankar Srivastava, (2006) 7 SCC 188; Padal Venkata Rama Reddy @ RemuvsKovuri Satyanarayana Reddy & Ors., 2011 (12) SCC 437, wherein it has been held that the inherent jurisdiction under Section 482 Cr.P.C must be exercised only to give effect to an Order under the Court to prevent abuse of the process of the Court and/or to otherwise secure the interest of justice.

53. Reference is also made to Hamida vs. Rashid @ Rasheed & Ors., 2008 (1) SCC 474, wherein it has been held that a Petition under Section 482 Cr.P.C must not be entertained at interlocutory stage as they are often filed with an oblique motive to circumvent the prescribed procedure or to delay the trial which may enable the accused to win the witnesses by money or muscle power or they may become disinterested in giving evidence ultimately resulting in miscarriage of justice.

54. ***In the Rejoinder Affidavit filed by the Petitioners to the Counter-Affidavit of Respondent No.2***, the contentions as raised in the main Petition, were reiterated and the allegations made in the Counter-affidavit were denied.

55. It is further asserted that in the Medical Assessment Report of Moolchand Hospital filed by the Respondent No.2 along with her Reply, it is stated that she has deliberately not commented on her medical papers



which has a history of six years from May, 2008 to March, 2014; neither is she rejecting them or accepting it. The medical history which covers more than 75 visits to the Psychiatrist, also states no Complaints against the Petitioners or Respondent's husband.

56. The Assessment Report of Respondent No.2 and her medical record of six years, were taken to another reputed Psychiatrist Dr. M.B. Pethe at Pune, for independent opinion. He opined that the Psychological Test Report shows no disclosure by the patient about her prolonged medication and past history of sickness and that Respondent No.2 suffers from *Schizo-affective Psychosis* for many years. In such sickness even if the disease is in remission, the test invariably would show residual features of her past illness and it can never be an absolute normal Report.

57. Submissions heard and record perused.

58. These two Petitions arise from a matrimonial dispute between the Respondent No.2, Ms. [REDACTED] and her husband, [REDACTED]. They got married in the year 2007 and were blessed with a son in the year 2008. According to Respondent No.2, there were matrimonial disputes *inter se* her and her husband and the parents-in-law which eventually resulted in her separation from the husband in March, 2014. The Petitioners who are the parents-in-law of the Complainant have sought the quashing of the FIR as well as Petition under DV Act, on merits.

59. Before embarking on the *merits of the case*, it is pertinent to observe that in the 1980's, daily there were daily cases reported of the girls being subjected to harassment and even of dowry deaths by burning. This reflected an alarming situation in the Society of the women being the victim of the gravest of the crime committed upon them, not only by men but also



by the women. The Legislature in its wisdom recognized the persistent and deep rooted nature of this underlying social malice of dowry and its consequent effects and the pressing need for law to address this grave suffering being inflicted on the women, as a result of dowry related offences.

60. It led to the introduction of Section 498A IPC by way of Criminal law Second Amendment Act, 1983 (*Act No. 25 of 1983*) w.e.f. 25.12.1983 in the wake of increasing cases of dowry harassment and dowry deaths. While this Section was enacted in furtherance of the *Principle of Positive Discrimination under Article 15 of Constitution of India* which empowers the State to enact Special laws for Protection of the Women, Children and the Disadvantaged people, Section 498A IPC was intended to address this alarming situation of crime being committed against women with impunity and also to address the prevailing social practice of dowry in the Indian Society.

61. However, the experience over past so many years has shown that while in some cases it may have been really successful in dealing with the situation and also address issues of dowry demands to some extent, but in many of the reported cases, it has been found to be used as a mean and an arm twisting tactic to settle the other dispute which may arise in the matrimonial relationship. It has become an easy tool in the hands of the Complainants to settle the scores by getting false FIRs registered containing the exaggerated and manipulated allegations.

62. In this context, it would be significant to refer to the observations made in the case of Arnesh Kumar vs. State of Bihar & Anr., (2014) 8 SCC 273 in the context of the case under Section 498A IPC that this Section has



found a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives and the simplest way to harass is to get the husband and his relatives arrested under this provision.

63. The efficacy and the utility of Section 498A cannot be undermined merely on account of its misuse in some cases; Courts, however, have been vigilant and have given relief to the parties in the appropriate situations either by granting bail or by quashing the FIRs. The other steps have also been taken that once a Complaint is made, an endeavour be made to get the matter settled and only if the things do not work out, the FIR may be registered.

64. This present case is one such instance where the matrimonial relationship did not work out well between the husband and wife and in order to bring the Petitioners to their knees and to concede to the expectations of the Complainant, the present FIR has been registered, as is demonstrated hereinafter.

65. As already mentioned above, where the Court finds misuse of the Section, the Courts must be vigilant and quash the proceedings under Section 482 Cr.P.C. whenever it is found to be registered for ulterior reasons or out of revenge or vindictiveness.

W.P.(CRL) 720/2018: For Quashing of Charge-Sheet under Section 498A IPC:

66. At the outset, the Preliminary issue which needs to be considered is: *Whether the Petitioners can seek quashing of Chargesheet under Section 482Cr.P.C., once cognizance has been taken and Petitioners have been summoned by the learned M.M.*



67. This aspect was considered by the Apex Court in Shailesh bhai Ranchhodbhai Patel & Another vs. State of Gujarat & Ors., Criminal Appeal No. 1884/2013 (decided on 28.08.2024) where it was categorically held that if upon a reading of the contents of the FIR and the Chargesheet together, the High Court, while exercising jurisdiction under Section 482 Cr.P.C., is satisfied that no offence is disclosed and that the continuation of such proceedings would amount to an abuse of the process of the Court, then the FIR, even when the Chargesheet stands filed, may be quashed.

68. The reason for doing so emerges from the observations of the Apex Court in the case of Joseph Salvaraj A. vs. State of Gujarat, (2011) 7 SCC 59, wherein it was held that the power to examine whether a prima facie case is made out or not, still vests with the High Court even after the filing of the filing of the Chargesheet.

69. Similar observations were made in the case of Mamta Shailesh Chandra vs. State of Uttarakhand, 2024 SCC OnLine SC 136, Anand Kumar Mohatta vs. State(NCT of Delhi), (2019) 11 SCC 706, Abhishek vs. State of M.P., (2023) 16 SCC 666, where the Apex Court has held that when it comes to the power of the High Court to prevent the abuse of the process of court or miscarriage of justice, there is no bar to exercising such power even when the Chargesheet has already been filed. In such cases, where no prima facie case is made out or where there are no specific allegations against the accused, the continuation of proceedings would amount to a travesty of justice.

70. **From the aforesaid judgements, it emerges** that the inherent power of the High Court, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a Court proceeding ought not to be



permitted to be degenerated into a weapon of harassment or prosecution. For proper realization of the object and purpose of the provisions which seek to save the inherent powers of the High Court to do justice between the State and its subjects, the width and contours of this salient jurisdiction, need to be emphasized.

71. Further objection has been raised that a similar attempt to quash the FIR was made by filing a Writ Petition before the High Court of Judicature at Allahabad, which was dismissed by Order dated 13.04.2016 on the ground that the FIR disclosed a cognizable offence.

72. It is correct that an earlier endeavour for quashing of the FIR was made by the Petitioners by filing a Writ Petition before the High Court of Judicature at Allahabad, which got dismissed on 13.04.2016. However, it cannot be overlooked that what was sought to be quashed at that stage was the FIR itself. FIR which prima facie disclosed a cognizable offence definitely merits investigations to assert the truthfulness of the allegations.

73. However, after the registration of FIR, due investigations have been conducted and all the available evidence against the Petitioners, has been collected. The grounds and the circumstances on which the quashing is now sought of the Chargesheet emanating from the FIR, is inherently different from those that could have been considered at the stage of quashing of FIR itself, without any further investigations. ***Therefore, the earlier rejection of the Writ Petition for quashing of the FIR, cannot be considered as a circumstance to dismiss the present Writ Petition at the outset.***

74. The contentions of the Petitioners need to be considered on merits, to ascertain if it is a case which mandates quashing of proceedings against them.



75. What thus needs deliberation is the circumstances and the parameters which justify invocation of this extra-ordinary jurisdiction.

76. This power to quash a proceeding is a wholesome power which must be exercised only if the High Court comes to the conclusion that allowing the proceedings to **continue would be an abuse of the process of the Court or that the ends of justice require the proceedings to be quashed.**

77. The necessity of exercising this power, more so in criminal cases, was highlighted by the *three Judge Bench of the Apex Court* in the case of State of Karnataka vs. L. Muniswamy, 1977 SCC (Cri) 404 wherein it was observed that in a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like, would justify the High Court in quashing the proceedings in the interest of justice which are much higher than the ends of mere law and justice has got to be administered according to the laws made by the Legislature.

78. The circumstances in which the exercise of inherent power must be exercised to quash the proceedings, were detailed in R.P. Kapur vs. State of Punjab AIR 1960 SC 866 as follows:

- (i) *Where it manifestly appears that **there is a legal bar** against the institution or continuance, example want of sanction;*
- (ii) *Where the allegations in the first information report or complaint taken at its face value and accepted in their entirety **do not constitute the offence alleged;***
- (iii) *Where the allegations constitute an offence but **there is no legal evidence** adduced or the evidence adduced clearly or manifestly fails to prove the charge.*



79. It was further explained that while dealing with the last category, it is important to bear in mind the distinction between a case where there is no *legal evidence* or where *there is evidence which is clearly inconsistent with the accusations made* and a case where there is *legal evidence which, on appreciation, may or may not support the accusations*. While exercising jurisdiction under Article 482 of Cr.P.C. of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of its accusation would not be sustained; that is the function of the Trial Court.

80. To ascertain the existence of any of these circumstances, i.e. no prima facie case, averments being absurd and inherently improbable or manifestly malafide, *the Court owes a duty to look into the FIR with care and a little more closely*, as was observed in the case of Mahmood Ali and Ors vs. State of Uttar Pradesh and Ors., (2023) 15 SCC 488. The chances of manipulation of facts once a Complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, were highlighted. It was noted that such an ill motivated Complainant would ensure that the FIR/Complaint is very well drafted with all the necessary ingredients to constitute the alleged offence. *Therefore, it will not be just enough for the Court to look into the averments made in the FIR/Complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence, are disclosed or not. In frivolous and vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case, over and above the*



averments made in the Complaint and if need be, due care and circumspection must be exercised to try to read in between the lines.

81. To sum up, the ***Twin Test*** for exercising the inherent powers under Section 482 Cr.P.C. are ***either to prevent abuse of the process of any Court*** or otherwise ***to secure the ends of justice***.

82. Further, in the aforementioned judgments, it was reiterated that where the FIR or the Complaint even if taken on the face value and accepted in their entirety, do not prima facie constitute a case against the accused, the quashing of proceedings would be justified. Only stating cruelty has been committed by the Appellants, would not amount to an offence under Section 498A IPC.

83. *In the light of aforesaid discussion, facts of this case may now be considered to ascertain whether the circumstances justify quashing of FIR registered under Sections 498A/323/504/506 IPC.*

Object and Scope of Section 498A IPC:

84. Before embarking on the ***facts of the present case, it would be first relevant to define the contours of the offence under Section 498A IPC.*** Section 498A reads as under:

“Section 498A. Husband or relative of the 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 purposes 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) 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."

85. The Apex Court in Digambar and Another vs. The State of Maharashtra and Another, 2024 INSC 1019 observed that Section 498A penalizes the act of '**cruelty**' by a husband or his relative towards a woman as has been defined in the *Explanation* appended thereto which provides that the **cruelty** punishable under Section 498A IPC may be of two kinds.

(i) **there has to be cruelty inflicted** against the victim which either drives her to commit suicide or cause grave injury to herself or to lead such conduct that would cause grave injury and danger to life, limb or health, or

(ii) **harassment** with a view to satisfy an unlawful demand for any property or valuable security.

86. The term 'cruelty' was considered in the case of Arvind Singh vs. State of Bihar, (2001) 6 SCC 407 and it was observed that in common English acceptance it denotes a state of conduct which is painful and



distressing to another. The Legislative intent in Section 498A IPC is clear to indicate that in the event of there being a state of conduct by the husband or his relatives towards the wife, which is attributed to be painful or distressing, the same would fall within the meaning of ‘cruelty’.

87. **The nature of cruelty envisaged under Section 498A IPC, has been explained** in the case of Jayedeeep Singh Pravin Singh Chavda and Others vs. State of Gujarat, 2024 SCC OnLine SC 3679, wherein the Apex Court while considering the guilt of the husband under Section 498A IPC observed that *cruelty simplicitor is not enough to constitute the offence under Section 498A IPC*, but must be with an intention as provided in Explanation to that Section.

88. The Apex Court in the case of Arvind Singh, (supra) concluded that wilful conduct referred to in Clause (a) of Section 498A would only be considered as cruelty if it is coupled with any unlawful demand for property or valuable security which may not be in the nature of dowry. The two Clauses; Clause (a) and Clause (b) of Section 498A must be read disjunctively thereby confirming that the absence of dowry demand does not preclude the application of this Section. It was thus, concluded that Section 498A IPC recognizes two distinct forms of cruelty; one involving physical or mental harm in Clause (a) and the other is harassment linked to unlawful demands of property or valuable security in Clause (b). *The dowry demand is not a pre-requisite for establishing cruelty under this Section.*

89. It is, therefore clear that while Section 498A IPC is loosely termed as dowry harassment, but there is no necessity of establishing a dowry demand to be successful in bringing home a conviction under Section 498A IPC. Therefore, the term dowry is missing in Section 498A IPC. However, in the



present case, the Prosecution has largely alleged harassment on account of dowry and cruelty because of the conduct of the Petitioners along with other family members.

90. **Section 304B IPC** deals with “*dowry death*”, which was inserted by way of Amendment w.e.f. 19.11.1986. Section 304B IPC defines dowry death and in its Explanation, states that the term “*dowry*” shall have the same meaning as under Section 2 of Dowry Prohibition Act, 1961.

91. Section 2 of Dowry Prohibition Act defines “*dowry*” as under:

“Section 2. Definition of “*dowry*”.—

In this Act, “dowry” means any property or valuable security given or agreed to be given either directly or indirectly—

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person;

at or before [or any time after the marriage] [in connection with the marriage of the said parties, but does not include] dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Explanation II.—The expression “valuable security” has the same meaning as in section 30 of the Indian Penal Code (45 of 1860).”



92. The facts of this case may now be considered to ascertain *whether the Complainant was harassed or subjected to cruelty, punishable under Section 498A IPC.*

93. **Respondent No.2 in her Complaint filed under Section 498A IPC to the Superintendent of Police claimed** that a lot of money was spent on her marriage. Her father gave Rs.5 lakhs cash and aside from gold and diamond sets, rings of Rs.7-8 lakhs, he also gave gold coins to all the in-laws apart from costly clothes, furniture, electronic goods and a Verna Car so that she could live happily in her matrimonial home. A sum of Rs.25 lakhs was spent in her marriage.

94. From these averments made in the Complaint, it only emerges that her parents had spent a lot of money and given gifts on the occasion of her marriage with the intent of the Respondent No.2 being happy in her matrimonial home. There is no averment whatsoever that any demand for dowry was made either prior or at the time for the expenditure incurred in the function of marriage. *What emerges is that the Complainant's family had performed the marriage according to their status, and had spent money accordingly.*

95. Respondent No.2 has further claimed that the Petitioners, her husband XXXXXXXXXX as well as her sister-in-law Deeksha had consistently made a demand of Rs.11 lakhs in cash and a Pajero Car and used to pressurize and assault her regularly and even pressurized to kill her. She also claimed that *in November, 2014*, she was taken to Pune but was brought back after a couple of days to her parental home by the husband of the Respondent No. 2. Since then, she has been staying with her parents in Noida. It is alleged that at this time, Petitioners made a fresh demand of Rs.11 lakh.



96. Pertinently, this allegation has no specific date or time and whether it was allegedly made prior to or at the time of birth of the son in 2008 and has continued till November, 2014 when she finally left for her parental home. The differences had arisen since March, 2013 and the bald allegations made by the Complainant, are nothing but a desperate attempt to somehow make the allegations of demands to bring the case under Section 498A IPC.

97. The statement of mother, Smt. Madhubala and father, Shri Subhash Chander were recorded under Section 161 Cr.P.C. during the investigations, but there too, aside from this vague allegation of demand of Rs.11 lakhs and Pajero car, ***there is essentially no allegation of dowry harassment or of cruelty.***

98. In the case of Geeta Mehrotra vs. State of UP, (2012) 10 SCC 741, the Apex court observed that where the FIR does not disclose specific allegations against the accused persons, except casual reference of their names and also does not disclose ingredients of offence under Sections 498A/323/504/506, IPC and Sections 3/4 of the Dowry Prohibition Act, is liable to be quashed. Merely by making a general allegation that they were also involved in physical and mental torture of the Complainant, without mentioning even a single incident against them as also the fact as to how they could be motivated to demand dowry, court deemed it a fit case to quash and set aside the criminal proceedings.

99. Herein as well, only a bald allegation is made in regard to demand for car and money, which is neither supported by any specific date or any specific incident. Significantly, there are no previous Complaints or any specific incidents of these alleged demands, which have emerged for the first time only after the marital discord and that too, in the Complaint



dated 26.12.2015. It is as vague as it can be and does not disclose any dowry harassment.

100. **The other allegations** are that she was *treated as a maid/ servant and was made to do the work*. She has claimed that she was **being assaulted, beaten and was also threatened** by the Petitioners. She was not allowed to touch any book or computer and was harassed and told not to use any of these things. The Petitioners and the sister-in-law also instigated her husband to take divorce. In November, 2014 she was left by the Petitioners at her parental home at Noida. Thereafter, several efforts were made by her father, but the Petitioners abused her father and did “*maar peet*” with her and left the place by threatening that if their demands were not fulfilled, they would perform the second marriage of [REDACTED].

101. However, there is not a single date or medical document to support her assertions aside from the bald claim of being beaten, there is no specific incident revealed in the statement of any of the prosecution witnesses.

102. Reference in this regard may be made to the observations of the Apex Court in the case of Kahkashan Kausar Alias Sonam and Others vs. State of Bihar, (2022) 6 SCC 599 wherein while dealing with quashing of FIR sought by Appellants for charges framed under Sections 498A, 341, 323, 341, 379, and 354 read with Section 34 IPC, who were the in-laws of the Complainant wife, it was observed that large number of Complaints which are not *bonafide* as they allege general allegations with no distinct details defining specific roles of the accused persons, they would not be sufficient to constitute an offence under Section 498A IPC. *The allegations which are general and omnibus, can best be said to have been made out on account of small skirmishes.*



103. Here also, these allegations are only general and omnibus and it is not stated when she was allegedly beaten and by whom. As has already been noted, the allegations of cruelty simplicitor are not sufficient but must be of the kind *which could have driven her to cause harm to herself*. The allegations made in the Complaint even if accepted in toto, do not prove that she was subjected to cruelty of the kind which could have driven her to cause harm to herself nor can it be said that there was any kind of harassment on account of dowry demands.

104. Another significant allegation placed by the Complainant was that she *was being administered medicines* which made her weak and sleepy and whenever she refused to take the medicines, her husband used to give her beatings.

105. The Petitioners have asserted that since prior to her marriage, the Respondent No.2 had some mental issues and had been on medication. It is the claim of the Petitioners that Respondent No.2 had been diagnosed with Bipolar Maniac Disorder and was under regular treatment.

106. **Per Contra**, Respondent No.2 in her Response has asserted that after she was left at her parental home at Noida, she was taken by her father to Doctor Jitender Nagpal, Consultant Psychiatrist and In-charge, Department of Mental Health, Institute of Child Development and Adolescent health, Moolchand Hospital, New Delhi, where she was made to undergo Exhaustive Clinical and Psychological Tests. The detailed tests did not find any 'Pathognomonic Indicators' hinting any underlying significant thought or mood level disturbances. She had claimed that it is the concocted story of the Petitioners regarding the Respondent suffering from mental disorder.



107. The Respondent No.2 herself has placed on record the Assessment Report of Moolchand Hospital, where her examination has been conducted from 09.03.2016 to 12.03.2016, wherein in her history it is stated that she had visited the Department to establish her capability to take care of a child and the other responsibilities. As per the information shared by Respondent No.2  and later affirmed by her parents who were the chief informants, it was stated that there has been a history of Post-Partum Psychosis for which she was under medication. She got married in 2007 but because of significant interpersonal issues since beginning, her condition deteriorated with time. Her husband was in Merchant Navy and was away for most part of the year. Initially, he was supportive, but with time, the Respondent No.2 shared that he was always taking side with his mother.

108. She had claimed that her over sleepiness and lethargy was due to the medication on which she had been put and which she had continued even after she supposedly recovered from whatever problems she was undergoing after the delivery of the child. Her resistance was not acknowledged and according to her she was kept under influence of medication even when she did not need them.

109. The tests were conducted and it was found that the protocol was suggestive of Above Average Intellectual Functioning and reflected her tendency to perceive situations and facts as wholly organized along with the few movement responses, all of which indicated a satisfactory level of intellectual capacity. She was able to perceive things and situations realistically and meaningfully. Less number of human responses were reflective of significant problems and dissatisfaction interpersonal relationships which could be owing to her current life situation. There was a



hint of feeling of inferiority and no self-esteem. She seemed to be self-absorbed withdrawn state, finding difficulty in discharging her emotional energy adequately. By her inmate nature she is an individual who prefers to follow her own decisions and considered herself to be self-sufficient and resourceful person. **The ultimate impression was that she refrained making decisions for herself**, but had high guilt proneness making her worrisome and tendency to get troubled easily. She was in inadequate touch with reality with no pathognomonic indicators hinting a significant thought or mood level disturbances. Individual counselling sessions for helping her build self-esteem and copying skills enhancements were recommended.

110. While the **Petitioners had claimed that she suffered from Bipolar Maniac Disorder**, but whatever may have been her mental psychological indicators, there is nothing to show that there was any forced medication being given to the Complainant or that it resulted in any harm to her health. It cannot be said from these vague allegations that the act of cruelty was being committed upon her on this account.

111. The Complainant *has asserted that the Petitioners did not let her meet her husband*. However, these averments pertain essentially to the year 2013 while the Parties got married in the year 2007. While considering this allegation, it cannot be overlooked that the husband was in the Merchant Navy and would necessarily be away from home for long periods of time. No circumstance whatsoever has been disclosed to explain how he was prevented from staying with her.

112. The Complainant herself has averred that [REDACTED] visited her in her parental home at Noida between 23rd to 26th April, 2014 and stayed in her parental home and gave her the assurance that he would settle the matter



and the things would normalize. In the next year and a half, [REDACTED] again came for spending leave and arranged for the Respondent to visit various places in July 2014, November, 2014 and May, 2015. He kept assuring that he was trying for a shore job in India and that when it would materialize he would take her back.

113. Her own narration of events in the Complaint, are contradictory to her assertion that the husband was being prevented from meeting her. The reason as clearly manifest is the differences between the parties and not an act of cruelty or harassment by the Petitioners.

114. *The Petitioners have further asserted that in January, 2015 tired by the aggression and constant threats of filing Complaints and of committing suicide, Ankur Khatri filed a Petition for **divorce under Section 13(1) (iii) and 1(a) of the HMA, 1955, in January 2015, which also included a prayer for custody of the child in the Family Court, Pune.***

115. Immediately thereafter, Respondent No.2 and her parents filed a ***Complaint dated 26.12.2015 with Women's Police Station Noida under Section 498-A, 323, 504, 506 IPC and Section 3 & 4 Dowry Prohibition Act, 1961 against her husband as well as the Petitioners*** including their married daughter living in Hyderabad for the past six years in her matrimonial home.

116. *Not only this, on 17.12.2015, the **Respondent No.2** filed a Petition **HMA Case No.740/2015 under Section 9 Hindu Marriage Act, 1955** for Restitution of Conjugal Rights, at Family Court, Gautam Budh Nagar. Had there been any harassment or alleged cruelty, no person would seek a Decree of Restitution to join back the matrimonial home. Her immediate seeking of restitution is a significant give away to the allegations being*



made only to somehow, arm twist the Petitioners and her husband to resolve their disputes.

117. The Apex Court while dealing with the components of Section 498A IPC, observed in the case of Dara Lakshmi Narayana and Others vs. State of Telangana and Another, 2024 SCCOnLine SC 3682, that if the allegations in the FIR are found to be vague and ambiguous and lack of precise allegations ***which are alleged after the Notice of Divorce***, then it may be concluded that the FIR has been lodged as a retaliatory measure intended to settle the score with the husband and his relatives. In such a situation, the quashing of the FIR is justified.

118. Present case is a classic example of misuse of the salutary provision of Section 498A IPC by the Complainant. The contents of the Complaint and the Chargesheet, clearly show that it is an abuse and misuse of the process of the Court, resorted to by the Complainant to use it as a tool for compelling the Petitioners to relent to her expectations.

119. *Another significant aspect is that the **sister of the Husband who was married and living in her matrimonial home in Hyderabad was also roped in by the complainant**, which also reflects a tendency to rope in other family members as a pressure tactic.* This is reinforced from the fact that after investigations, *Chargesheet dated 20.06.2015* was submitted against the Petitioners and [REDACTED], in the Court but it was found that there was no prima facie case against the daughter of the Petitioners and she was not Charge-Sheeted.

120. Complainant, in her Complaint has next alleged ***that her son was not been permitted to stay with her and she was also been denied an access to the child.*** She has asserted that that she received a Notice of Divorce



Petition on 17.11.2015 and that it was then she realized that [REDACTED] had been cheating her by gaining time to the child to brainwash him against his own mother.

121. The matrimonial differences led to the separation and the custody of the child was with the husband and the Petitioners. However, merely because the child was in the custody of the husband after disputes *interse* arose, **cannot be equated with cruelty or harassment as envisaged under Section 498A IPC. The Complainant has already sought her legal right to access to the child by Court intervention.**

122. *Thus, the essential ingredients of Section 498A IPC are not made out from the Complaint made by Respondent No.2.* The entire Complaint and the evidence collected during the investigations in the present matter, even if admitted *in toto*, would not be enough to prove an offence under Section 498A IPC. As already noted above, the onerous duty lies on the Court on one hand, to ensure that the true victims get justice and on the other hand, to ensure that Section 498A IPC, a salutary endeavour of legislation to address the menace of harassment of women by the husband and the in-Laws; must not be permitted to be misused and abused in order to ensure the credibility and faith in the justice delivery system.

123. Therefore, in the light of the aforesaid discussion, it is evident from the statement of Respondent No.2 and the supporting witnesses that it is a case where there was an adjustment issue between the Respondent No.2 and her husband which has been given a ***colour of dowry harassment***. It is more of a case of misuse of the provisions of Section 498A IPC by the Respondent No.2 and has been filed as a counter blast to the Divorce Petition filed by the husband Ankur Khatri in the year 2015. Clearly, no



Complaint whatsoever got filed till the filing of the Divorce Petition and it is only thereafter, that the Respondent No.2 made a Complaint with the vague allegations.

124. The guiding tests in regard to the quashing of the FIR, had been succinctly stated in the case of State of Haryana vs. Bhajan Lal, 1992 Supp (1) SCC 335 wherein it is observed that “*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; or 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, the FIR may be quashed.*”

125. As discussion above in detail, there is not an iota of even a *prima facie* case of cruelty or of harassment of the Complainant by the Petitioners/patents-in-law. Though the Chargesheet has been filed in this Case but as noted above, but that in itself cannot be a ground to deny the quashing and to refer the parties to try their luck before the learned Trial Court. Chargesheet is liable to be quashed as observed in the case of Bhajan Lal, (supra).

126. *Therefore, it is concluded that it is a fit case for quashing of the Chargesheet in FIR No.154/2015 for the offences under Sections 498A/323/504/506 IPC against the Petitioners in exercise of jurisdiction under Section 482 Cr.P.C.*

127. Accordingly, Chargesheet No.64/16 dated 20.06.2016 filed in Case Crime No. 152/2015 filed under Sections 498A, 323, 504, 506 IPC and



Section 3/4 of Dowry Prohibition Act, registered in Women Police Station Gautam Budh Nagar, U.P.along with the subsequent proceedings,*is hereby, quashed.*

Quashing of Petition under Domestic Violence Act:

128. The Petitioners in the present petition, are seeking quashing of the *Complaint Case No. 1430 of 2016* filed under Sections 18, 19, 20, 21, and 22 Protection of Women from Domestic Violence Act, 2005 (*hereinafter referred to as "DV Act"*), along with the Summoning Order dated 23.06.2017 and the Order of issuing Notice dated 23.01.2018, of the Learned Metropolitan Magistrate, Mahila Court, Delhi.

129. The question is *whether proceedings initiated under the DV Act is liable to be quashed by invoking the inherent jurisdiction of the High Court under Section 482 of the Code of Criminal Procedure, 1973.*

130. To answer this question, it is necessary to first comprehend the nature and scope of proceedings under D.V. Act.

131. The Statement of Objects and Reasons of the Act noted that a woman subjected to cruelty by her husband or his relatives, had recourse only under Section 498A Indian Penal Code, 1860 but had no Civil remedies. To provide *effective civil remedies for the protection of women* from domestic violence, *the DV Act* was enacted.

132. This finds support in the case of Kamatchi vs. Lakshmi Narayanan, (2022) 15 SCC 50, wherein the Supreme Court reiterated that proceedings initiated under Section 12 of the DV Act begin with the filing of an Application, followed by a reply from the respondent. The Court may then proceed, if necessary, to take evidence on affidavit, and thereafter pass



appropriate orders under Section 12. This *civil nature* is further illustrated by the fact that amendment of pleadings, a feature generally associated with civil litigation, is permitted under the DV Act. The reliefs granted by the Court under the said Act such as Protection Orders, Monetary Relief, Custody, and Compensation are entirely civil in nature. ***The structure and conduct of such proceedings, affirms their civil nature.***

133. Another aspect to demonstrate the proceedings under the DV Act is Civil, was stated by Madras High Court in Dr. P. Padmanathan & Ors. vs. TMT Monica, 2021 SCC OnLine Mad 8731 wherein it was observed that a Magistrate who deals with an Application under Section 12 of the DV Act, does not take cognizance of any offence or initiate a Criminal Proceeding. Instead, the Application is like a Civil Petition seeking protective and remedial reliefs and not punitive sanctions.

134. Another interesting aspect of the special enactment is that while DV Act envisages civil remedies for an aggrieved woman, but to ensure expeditious relief and to get the civil Orders implemented through more expeditious criminal processes, *Sub-section (1) of Section 28* has been inserted, which governs the procedural aspects. Sub-section (1) states that proceedings under the DV Act to follow the Code of Criminal Procedure, 1973 (CrPC) for summoning and ensuring the presence of the Respondent and other like purposes. However, Sub-section (2) empowers the Magistrate to devise a separate procedure for disposing of Applications under Section 12 or sub-section (2) of Section 23.

135. This aspect was highlighted by the Apex Court in Kunapareddy @ Nookala Shanka Balaji vs. Kunapareddy Swarna Kumari & Ors., (2016) 11 SCC 774 wherein it observed that the incorporation of sub-section (2) into



Section 28 was intentionally designed to accommodate Criminal Procedure for the civil reliefs provided under the Act. *This flexibility allows courts to adopt a Civil procedure, particularly during the adjudication of Applications, while still using the Cr.P.C. for preliminary matters like issuing summons or securing attendance.*

136. Once it is noted that the ***DV Act deals with the Civil remedies***, next question which arises is whether Application under ***Section 12 DV Act filed by Respondent is liable to be quashed under Section 482 Cr.P.C.***

137. The scope of quashing the Application under Section 12 DV Act was elaborately discussed by the **Supreme Court** in Saurabh Tripathi vs. Vidhi Rawal, (Crl. Appeal No. 2688 of 2025). It was emphasized that **Sections 18 to 23** of the Act provide a wide range of civil reliefs aimed at preventing acts of domestic violence and providing redressal to affected women. **It was further noted that there is always a remedy of Appeal provided under Section 29 of the DV Act in the Court of Sessions which is not available against an order taking cognizance of an offence or an order issuing process.** Therefore, while exercising inherent powers under Section 482 Cr.P.C., the courts must be extremely cautious and should refrain from interfering unless there is ***palpable illegality or a gross abuse of process.***

138. **First ground** on which quashing is sought is that the averments in the Application under Section 12 DV Act ***does not establish the prerequisite of Domestic Violence.*** There is no prima facie evidence of violence of any kind to which the respondent has been subjected and the DV petition is not maintainable.



139. The Respondent-Wife has sought reliefs for *Protection, Residence Order, Monetary Relief, Custody of the child as well as Compensation Order* in her Complaint under the DV Act.

140. *Section 3 of the DV Act* which defines *Domestic Violence* is comprehensive and includes not only physical abuse but also mental and emotional abuse. Most importantly, it also includes *economic abuse*. Further, the reliefs which a person may seek under the DV Act are not limited only to monetary reliefs, but also extend to custody orders in respect of the child, compensation for the injury or physical, mental, emotional distress caused to the person; most importantly the *Protection Orders* and *Residence Orders* i.e. *a right to shared household*.

141. In this regard, it would be pertinent to refer to Section 17 of the DV Act which provides for *right to reside* in a shared household while Section 19 deals with *Residence Orders* which could be passed by a Magistrate. Sub-section (1) of Section 17, which begins with a non-obstante Clause, states that notwithstanding anything contained in any other law for the time being in force, *every woman in a domestic relationship shall have the right to reside in the shared household*, whether or not she has any right, title or beneficial interest in the same.

142. What is thus, evident is that while all other reliefs are available to an “*aggrieved person*” thereby implying that the person should have been a victim of domestic violence, but this condition is not the pre-requisite for Right of Residence under Section 17 of the Act.

143. This aspect was clarified in the in the case of Prabha Tyagi vs. Kamlesh Devi, (2022) 8 SCC 90 Apex Court observed that the *right of residence is guaranteed under Sub-Section (1) of Section 17* and woman



cannot be evicted, excluded or thrown out from such a household even in the absence of there being any form of domestic violence i.e. *even if she is not an 'aggrieved person'*.

144. *In the present case*, the Respondent-wife has sought reliefs for *Protection, Residence Order, Monetary Relief, Custody of the child as well as Compensation Order* in her Complaint under the DV Act.

145. Therefore, even if the contention of Petitioner is accepted that there was no domestic violence, then too, the right to claim residence is still maintainable.

146. The ***second ground*** for seeking quashing of the Application under Section 12 DV Act, is that the allegations against the Petitioners are vague and made with ulterior motive to harass the Petitioners. They have asserted that there are no specific allegations of violence or abuse of any kind to which the respondent has been subjected and therefore, the DV Petition is not maintainable.

147. As already noted above, it is essentially a civil proceeding and whether the Respondent-wife is entitled to the reliefs sought by her in her petition under Section 12 of the DV Act is a matter to be adjudicated upon by the Learned MM after considering the case on its merits. It cannot be held at this stage, that the proceedings are vexatious or that outrightly no cause of action is disclosed in the Petition and is liable to be quashed.

148. There is *no ground made out for quashing of the D.V. Complaint* filed by the Respondent at this stage.

149. However, the Petitioners are at liberty to agitate his contentions on merit before the learned Metropolitan Magistrate who shall consider them in



accordance with law while deciding the Petition under Section 12 of the DV Act.

150. The Writ Petition No. 721/2018 seeking quashing of *Complaint case No. 1430/2016* is hereby *dismissed*.

Relief:

151. The **W.P.(CRL) No. 720/2018**, is allowed and Chargesheet No.64/16 dated 20.6.2016 filed in Case Crime No. 152/2015 filed under Sections 498A, 323, 504, 506 IPC and Section 3/4 of Dowry Prohibition Act, 1961 registered in Women Police Station Gautam Budh Nagar, U.P. along with the subsequent proceedings, is *hereby, quashed*.

152. The **W.P. (CRL) No. 721/2018**, seeking quashing of Complaint case No. 1430/2016 under D.V. Act, is **hereby dismissed**.

153. Accordingly, the pending Application(s), if any, stand disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

JUNE 28, 2025
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