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HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR

Criminal Revision No.521/2021

Abhishek Pandey @ Ramji Pandey and others

Versus

State of Madhya Pradesh and Others

Date of Order	18/08/2021
Bench Constituted	Single Bench
Order delivered by	Hon'ble Mr. Justice Sanjay Dwivedi
Whether approved for reporting	Yes
Name of counsel for parties	For Applicants: Mr. Ahadullah Usmani, Advocate. For Respondent No.1: Mr. Prakash Gupta, Panel Lawyer. For Respondent no.2 : Mr. Manoj Chaturvedi, Advocate
Law laid down	FIR lodged under Section 498-A of IPC and Section 3/4 of Dowry Prohibition Act after coming to know that husband is going to marry another lady, alleging incidents occurred almost two years prior to the date of lodging the FIR and after filing suit for seeking decree of divorce under Section 13-A of Hindu Marriage Act. The FIR is nothing but an after-thought and counter-blast to the suit filed by the husband for seeking decree of divorce. Charges framed are liable to be quashed.
Significant Para Nos.	17

Reserved on : 26.07.2021

Delivered on : 18.08.2021

(O R D E R)

(18/08/2021)

1. The applicants have preferred this criminal revision under Section 397(1) read with Section 401 of the Code of Criminal Procedure challenging the order dated 16.02.2021

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passed in SCATR No. 38/2020 by Special Judge, (Atrocities) Mandla framing charge against the applicant no.1 under Section 498-A of IPC and Section 3/4 of Dowry Prohibition Act and Sections 3(1) (z), 3(1)(zc) of SC/ST (Prevention of Atrocities) Act and against the applicant nos. 2 and 3 under Section 498-A of IPC, Section 3/4 of Dowry Prohibition Act and Sections 3(1) (s), 3(1)(z) and Section 3(1) (zc) of SC/ST (Prevention of Atrocities) Act.

2. As per the applicants, the court below has not considered the factual aspects of the matter in consonance with the actual existing legal position and ignoring the same, framed charges against the applicants.

3. For deciding the correctness of the order, the important facts of the case in a nutshell are that on 20.04.2015, the applicant no.1 entered into marriage with the non-applicant no.2 at Jagannath Mandir, Jabalpur and out of the said wedlock, the non-applicant no.2 gave birth to a child on 01.03.2016. The non-applicant no.2 belongs to 'Gond' community and after marriage, the applicant no.1 and non-applicant no.2 were residing as husband and wife but with effect from 02.01.2016, the non-applicant no.2 started living separately as the relations between them were not cordial and there was some dispute between them. When it became almost impossible to settle the disputes, the applicant no.1 filed a suit on 07.05.2019 seeking a decree of divorce under Section 13-A of Hindu Marriage Act, 1959 at Family Court, Dindori.

4. The notice was issued to the non-applicant no.2 and after receiving notice and knowing about filing of the divorce petition, she lodged a complaint to the Police Station, Kotwali, Mandla District Mandla and after enquiring about the complaint, the police registered the offence against the accused persons under Section 498-A of IPC and Section 3/4 of Dowry Prohibition Act. The offence has also been registered under the

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provisions of the SC/ST (Prevention of Atrocities) Act.

5. The learned counsel for the applicants moved an application before the Court below under Section 227 of Cr.P.C. for discharging them because the complaint made by the non-applicant no.2 is nothing but a counter-blast, just to create pressure upon the applicant no.1 to get his petition of divorce withdrawn. The said application has been considered by the court below and rejected vide impugned order dated 16.02.2021 thereby not considering the aspect that a false complaint has been made by the non-applicant no.2 considering the fact that divorce petition has already been filed by the applicant no.1.

6. It is also contended by learned counsel for the applicants that though the complainant originally belonged to 'Gond' community, which comes under Scheduled Caste category but after marriage with the applicant no.1, she did not remain to be in SC category and as such, cases relating to the offences of SC/ST Act are not made out against the applicants. The court below rejected the application mentioning therein that at the stage of framing of charges, the court has very limited scope of interference and in view of the material placed by the prosecution, even if suspicion arises regarding false implication, the accused cannot be discharged.

7. Shri Ahadullah Usmani, learned counsel appearing for the applicants criticized the order passed by the Court below and submits that in view of the existing factual position, admittedly after living separately from the applicant no.1, the non-applicant no.2 has not made any report to the police and has also not made any complaint with regard to demand of dowry nor attributed anything against the applicants that they have committed any offence relating to SC/ST Act. He submits that the non-applicant no.2 started living separately with effect from 02.01.2016 and after almost three years, he filed a suit for

decree of divorce under Section 13-A of Hindu Marriage Act and till then there was no complaint made by the non-applicant no.2 but only after receiving the notice, she has made false complaint. According to learned counsel for the applicants, there are several judgements of the Supreme Court as well as the High Court that under such a circumstance, the FIR can be quashed and accused can be discharged and, therefore, he submits that the court below has not considered this aspect, therefore, he is asking that the order of the court below deserves to be set aside and the applicants be discharged from the offences registered against them. He has placed reliance upon a decision reported in **(2013)9 SCC 293 Prashant Bharti Vs. State (NCT of Delhi)**.

8. Shri Prakash Gupta, learned counsel appearing for the State has opposed the submissions made by counsel for the applicants and supported the order passed by the court below, saying that on the basis of the material available, the court below has rightly rejected the application under Section 227 of Cr.P.C.

9. Shri Manoj Chaturvedi, learned counsel appearing for the non-applicant no.2, although not disputed the factual aspect of the matter but supported the submissions made by the State counsel and also supported the order passed by the court below, rejecting the application filed under Section 227 of Cr.P.C.

10. From the arguments advanced by learned counsel for the parties and the documents available on record, it is clear that undisputedly, the marriage was solemnized between the parties, i.e. applicant no.1 and non-applicant no.2 in the year 2015 and due to bitterness developed in their relations, they started living separately with effect from 02.01.2016.

11. On perusal of record, nothing has come to indicate that from the date of living separately till the date of lodging the FIR, any complaint has ever been made by the non-applicant

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no.2 to any of the authorities or to the police attributing against the applicants that they have ever demanded any dowry or created any act which comes under the provisions of SC/ST Act or any offence was made under Section 3/4 of Dowry Prohibition Act. From the FIR, it is clear that the same was made on 09.01.2020 whereas the husband/applicant no.1 had filed a suit for seeking decree of divorce on 07.05.2019 before the Family Court, Dindori. The notice was issued to the non-applicant no.2 and after the same was served upon her, she filed the complaint.

12. A charge-sheet has been filed by the applicants and from the statement of the complainant/ non-applicant no.2, it reflects that at the time of complaint, she had knowledge about filing of the matrimonial case seeking decree of divorce. It is also clear from the statement that the non-applicant no.2 after coming to know that applicant no.1 was going to get married with a lady namely Bhuvneshwari then only she lodged the report to the police and made several allegations of dowry and also of offences relating to the Atrocities Act.

13. The High Court in number of cases has observed that in a case where complaint is made by the wife against the husband and his family members only after filing a petition for divorce then the same is considered to be a counter-blast, just to create pressure upon the husband so that he may withdraw the case relating to decree of divorce. It is also observed by the High Court that if the fact indicates that the wife has not raised any voice alleging demand of dowry for long and has also not approached any authority regarding her grievances, but only after filing a suit by the husband complaint is made by the wife then the said complaint is considered to be a counter-blast and prosecution is considered to be an act apparently to harass the husband and his family members and such a complaint/FIR has been quashed.

14. In WWW.LIVELAW.IN M.Cr.C. No. 8104/2017 (Tarun and Others Vs. State of M.P. and another), the High Court, considering the similar aspect has passed an order quashing the FIR whereby offence under Sections 498-A, 506 read with Section 34 of IPC and Section 3/4 of Dowry Prohibition Act, 1961 were registered. The High Court relying upon several decisions has observed as under:-

“7. The parameters on which the indulgence can be shown for exercising powers available under Section 482 of 'the Code' with respect to matrimonial matters have been laid down by the Apex Court in the case of Geeta Mehrotra vs State of U.P. (2012) 10 SCC 741 in the following manner :

“20. Coming to the facts of this case, when the contents of the FIR is perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names who have been included in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

21. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of G.V. Rao vs. L.H.V. Prasad & Ors. reported in (2000) 3 SCC 693 wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that: (SCC P.698, para 12).

“12. there has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, 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 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 reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate the 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.”

The view taken by the judges in this matter was that the courts would not encourage such disputes.”

8. In another judicial pronouncement by the Hon'ble Supreme Court in the case of **Ramesh Rajagopal v. Devi Polymers (P) Ltd., (2016) 6 SCC 310**, wherein the Hon'ble Court referred to the earlier decision, observed in the following manner :-

“In *Madhavrao Jiwajirao Scindia and Ors. v. Sambhajirao Chandrojirao Angre and Ors.*, reported in (1988) 1 SCC 692, this Court observed as follows:-

“7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage.”

9. In the context of law laid down by the Hon'ble Apex Court, the plain reading of the FIR dated 03/03/2017 filed by the respondent No.2 shows that the allegations relating to commission of offence punishable under Section 498-A of IPC and Sections 3 & 4 of Dowry Prohibition Act, 1961 are vague and bereft of details as to the place and time of the incident, it also does not refer to any specific act of the applicants. According to the contents of F.I.R., the respondent No.2 was subjected to cruelty due to non-fulfillment of demand of Rs.5.00 lakhs as dowry by the applicants, however, it

is undisputed that the respondent No.2 is living separately since year 2015 and hence there is no question of any harassment by the applicants as alleged by her as the relationship having got a strained, ever since December 2014. It is pertinent to note that respondent No.2 has also filed complaint against applicant no.1 in Mahila Thana, Bhopal and after conciliation, she agreed to seek divorce from applicant No.1, therefore, it is difficult to believe that there is still a demand of dowry on 03/03/2017 coupled with the criminal intimidation.

10. The applicant No.1 filed a suit of divorce against respondent No.2/complainant in Family Court, Dhar in which an exparte divorce decree has been passed vide order dated 21/03/2017. After receiving the notice of the aforesaid suit respondent No.2 has filed an application under Section 12 of Protection of Women from Domestic Violence Act, 2005 against applicant No.1 on 03/03/2017 and on the same day, she also lodged F.I.R for offence punishable under Section 498A, 506 of IPC and Section 3 & 4 of Dowry Prohibition Act, 1961, against the applicant at police station Kotwali, District Dhar, which clearly indicates that as a counter blast of divorce petition filed by the applicant No.1 against respondent No.2, she has lodged the aforesaid F.I.R against the applicants.

11. On the basis of the aforesaid discussion, it would be evident that veiled object behind the lame prosecution is apparently to harass the appellants, therefore, to secure the ends of justice and for preventing abuse of the process of criminal Court, it is a fit case in which the inherent powers of this Court under Section 482 of 'the Code' may be exercised.

12. Consequently, the application filed by the applicants, under Section 482 of 'the Code' is hereby allowed and the First Information Report bearing crime No.116/2017, registered at Police Station-Kotwali, Dhar, against the applicants for offences under Section 498-A, 506 read with Section 34 of IPC and Sections 3 & 4 of Dowry Prohibition Act, 1961 as also the charge-sheet and all the consequential proceedings flowing out of the said F.I.R stands quashed.”

15. Further, in case of **Rohit Vs. State of M.P. reported in 2019 (III) MPWN 25**, considering the similar facts as has been involved in the present case, the High Court has observed as under:-

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“9. The first contention which appears to be preliminary in nature is that the documents which are brought on record regarding the complaint made by the applicant No. 1 to the Superintendent of Police, Ratlam and filing of application under Section 9 of Hindu Marriage Act, 1955 for restitution of conjugal rights are the defence documents and there is prohibition in considering such documents in order to decide the application of the instant nature. This contention can be best answered by relying on the judgment of the Supreme Court in the case of Rukmini Narvekar v. Vijaya Satardekar, (2008) 14 SCC 1, has held as under:

"21. We should also keep in mind that it is well settled that a judgment of the Court has not to be treated as Euclid's formula [vide *Rajbir Singh Dalal (Dr.) v. Chaudhari Devi Lal University* [(2008) 9 SCC 284 : (2008) 2 SCC (L&S) 887 : JT (2008) 8 SC 621]]. As observed by this Court in *Bharat Petroleum Corpn. Ltd. v. N.R. Vairamani* (2004) 8 SCC 579 : AIR 2004 SC 4778, observations of courts are neither to be read as Euclid's formula nor as provisions of the statute.

22. Thus, in our opinion, while it is true that ordinarily defence material cannot be looked into by the court while framing of the charge in view of *D.N. Padhi* case [(2005) 1 SCC 568 : 2005 SCC (Cri) 415] , there may be some very rare and exceptional cases where some defence material when shown to the trial court would convincingly demonstrate that the prosecution version is totally absurd or preposterous, and in such very rare cases the defence material can be looked into by the court at the time of framing of the charges or taking cognizance. In our opinion, therefore, it cannot be said as an absolute proposition that under no circumstances can the court look into the material produced by the defence at the time of framing of the charges, though this should be done in very rare cases i.e. where the defence produces some material which convincingly demonstrates that the whole prosecution case is totally absurd or totally concocted.

38. In my view, therefore, there is no scope for the accused to produce any evidence in support of the submissions made on his behalf at the stage of framing of charge and only such materials as are indicated in Section 227 CrPC can be taken into consideration by the learned Magistrate at that stage. However, in a proceeding taken therefrom under Section 482 CrPC the court is free to consider material that may be produced on behalf of the accused to

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arrive at a decision whether the charge as framed could be maintained. This, in my view, appears to be the intention of the legislature in wording Sections 227 and 228 the way in which they have been worded and as explained in Debendra Nath Padhi case (2005) 1 SCC 568 : 2005 SCC (Cri) 415 by the larger Bench therein to which the very same question had been referred."

10. The reproduced extracts of the said judgment clearly demonstrate that there is no prohibition in considering even the defence material while exercising the power under Section 482 of CrPC. Consequently, the first contention of the respondent about nonconsideration of the defence material is repealed.

11. The next contention which touches on the merits of the case is that the Court cannot consider the background or the circumstances under which the complaint has been lodged as it is only required to pursue the contents of the complaint lodged by the respondent No.2 and the statements recorded by the police under Section 161 of CrPC and if these materials make out the ingredient of offence charged against the applicants, there is no scope for showing any indulgence. In this context of said contention, it will be worthwhile to quote the following observation made by the Supreme Court in the case of **Ramesh Rajagopal v. Devi Polymers (P) Ltd., (2016) 6 SCC 310:-**

"15. In *Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre* [*Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre*, (1988) 1 SCC 692 : 1988 SCC (Cri) 234] , this Court observed as follows: (SCC p. 695, para 7)

"7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage."

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12. The consideration of the reproduced portion clearly indicates that it is open to the Court to enquire into the circumstances and the context in which the complaint has been lodged because it is not expedient in the interest of justice to permit the prosecution to continue when the same has been filed with oblique motive or to settle the personal score.

13. From perusal of the complaint, it appears that there is no specific averments regarding the date or the occasion or any specific wording that they made for demanding dowry. The marriage was taken place only one and half year before the complaint. Earlier no complaint was made to any authority regarding demand of dowry and harassment. According to the allegation made in the complaint that on 29.08.2017 in presence of the father and maternal uncle of the respondent No.2, the applicants made demand of dowry and thrown out her from the matrimonial house but complainant did not lodged any complaint immediately after the said incident to the police. The present complaint has been made after near about 3 months of the last incident and no explanation has been disclosed about the delay in lodging the FIR. These circumstance prima facie raised doubt about the probability of truthfulness of the allegations made by the respondent No.2 against the applicants.

14. From the documents filed by the applicants, it reveals that applicant No. 1 has given notice to the respondent No.2 on 20.11.2017 regarding restitution of conjugal rights and thereafter the respondent No.2 lodged FIR against the applicants at Police Station- Mahila Thana on 26.11.2017, which indicates that the respondent No.2 lodged the FIR against the applicants for demand of dowry and harassment to defeat the proceedings initiated by the applicant No.1 for restitution of conjugal rights.

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15. From the reasons stated hereinabove, this court is of the view that there are no sufficient material on record to form an opinion that there is ground for presuming that the appellants/accused persons have committed the offence under the charged sections. The learned Judicial Magistrate and the learned Sessions Judge missed these crucial points while framing the charge and considering the revision application filed by the applicants under Section 397 of Cr.P.C. the veiled object behind the lame prosecution is apparently to harass the applicants, therefore, the impugned prosecution is wholly unfounded.

16. Therefore, present petitions under Section 482 of Cr.P.C. are hereby allowed and the proceedings drawn against the applicants in furtherance to the FIR bearing crime No.18/2017 for the commission of offence punishable under Section 498-A, 323/34 of I.P.C. registered at police Station-Mahila Thana, Ratlam and the consequential proceedings pending before the court of Judicial Magistrate First, Class, Ratlam in criminal case No.2215/2017 are hereby quashed.”

16. Further, in case of **Sanjay Sthapak & 4 others Vs. State of M.P. and another** passed in **M.Cr.C. No. 10044/2010**, the High Court has also dealt with a situation as is involved in the present case and also analysed the misuse of provisions of Section 498-A of IPC and also discussed the factual aspect that the complaint is made by the wife only after filing of suit by the husband for seeking decree of divorce and there is no corroborative material available then it is considered that the action by the wife is nothing but a counter-blast and as such, allegations made in the FIR are found absurd and improbable and also quashed the FIR. The High Court in the said case has observed as under:-

“5. Having considered the contentions of learned counsel for the parties and on perusal of record it is found that in the FIR there is no specific allegation with regard to the demand of the dowry and harassment and only omnibus statement have been made against all accused persons and when the matter was placed before the District Level Pariwar Paramarsh Kendra, Khandwa the statements of respondent no.2, and her brother Akash and mother Smt. Lata were recorded on 28th September, 2018 in which there is no whisper of demand of dowry and harassment on account of non fulfilment of the

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aforesaid demand and the dispute was related to non-adjustment or non-cooperative attitude of the respondent no.2, which is not unusual. It also appears that on behalf of the applicant no.1 divorce petition was filed before the Family Court, Khandwa on 19/09/2018 and notice was served before 25th October, 2018 and thereafter on 28/10/2018, the FIR was lodged, this fact reflects that it is counter blast of the action taken by the applicant no.1. Apart from it, the allegation in the FIR are so absurd and inherently improbable, on the basis of which no prudent man can ever reach to the just conclusion that there is just reasonable ground for proceeding further against the applicants.

6. There is no dispute about the legal preposition that the truthfulness of the facts mentioned in the FIR and the charge sheet can't be adjudicated at this stage but if the averment is omnibus and not sufficient and not probable and do not prima facie constitute any offence and the proceeding is started to achieve the ulterior motive for wreaking vengeance, as counter blast the same can't continue and this Court under section 482 of the Cr.P.C is duty bound to set aside such proceeding.

7. The Three-Judge Bench of the Apex Court in the case of *Inder Mohan Goswami Vs. State of Uttaranchal (2007)12 SCC 1* has observed in para 24 of the said judgment, which is as under:-

"24. Inherent powers under section 482 Cr.P.C. though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the Court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the Statute."

8. Now days it is general tendency to implicate in-laws by the wife in case of demand of dowry just to take revenge on account of bitterness emerged on account of nonadjustment in the matrimonial house. The provision of section 498A of the IPC is not for that purpose. The Apex Court in **Bhaskar Lal Sharma & another vs. Monica** [(2009) 10 SCC 604] in which the Apex Court considering the judgment of the Apex Court in **Sushil Kumar Sharma vs. Union of India** [(2005) 6 SCC 281] it is held that :-

"10. The object for which Section 498-A IPC was introduced is amply reflected in the Statement of Objects and Reasons while enacting the Criminal Law (Second Amendment) Act 46 of 1983. As clearly

stated therein the increase in the number of dowry deaths is a matter of serious concern. The extent of the evil has been commented upon by the Joint Committee of the Houses to examine the work of the Dowry Prohibition Act, 1961. In some cases, cruelty of the husband and the relatives of the husband which culminate in suicide by or murder of the helpless woman concerned, constitute only a small fraction involving such cruelty. Therefore, it was proposed to amend IPC, the Code of Criminal Procedure, 1973 (in short 'CrPC') and the Evidence Act suitably to deal effectively not only with cases of dowry deaths but also cases of cruelty to married women by the husband, in-laws and relatives. The avowed object is to combat the menace of dowry death and cruelty.

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19. The object of the provision is prevention of the dowry menace. But as has been rightly contended by the petitioner many instances have come to light where the complaints are not bona fide and have been filed with oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignominy suffered during and prior to trial. Sometimes adverse media coverage adds to the misery. The question, therefore, is what remedial measures can be taken to prevent abuse of the well-intentioned provision. Merely because the provision is constitutional and intra vires, does not give a licence to unscrupulous persons to wreak personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with. Till then the courts have to take care of the situation within the existing framework. As noted above the object is to strike at the roots of dowry menace. But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used as a shield and not as an assassin's weapon. If the cry of 'wolf' is made too often as a prank, assistance and protection may not be available when the actual 'wolf' appears. There is no question of the investigating agency and courts casually dealing with the allegations. They cannot follow any straitjacket formula in the matters relating to dowry tortures, deaths and cruelty. It cannot be lost sight of that the ultimate objective of every legal system is to arrive at the truth, punish the guilty and protect the innocent. There is no scope for any preconceived notion or view. It is strenuously argued by the petitioner that the investigating agencies and the courts start with the presumptions that the accused persons are guilty and that the complainant is speaking the truth. This is too wide and generalised a statement. Certain statutory presumptions are drawn which again are rebuttable. It is to be noted that the role of the investigating agencies and the courts is that of a watchdog and not of a bloodhound. It should be their effort to see that an innocent person is not made to suffer on account of unfounded, baseless and malicious allegations. It is equally undisputable that

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in many cases no direct evidence is available and the courts have to act on circumstantial evidence. While dealing with such cases, the law laid down relating to circumstantial evidence has to be kept in view.”

9. The Apex Court in **Preeti Gupta vs. State of Jharkhand** [(2010) 7 SCC 667] held that:-

32. It is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

10. The Apex Court in **Geeta Mehrotra and another vs. State of Uttar Pradesh** [(2012)10 SCC 741] held that :-

20. Coming to the facts of this case, when the contents of the FIR are perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names which have been included in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

11. Hon'ble the Apex court in the recent judgment, **Rajesh Sharma and ors. vs. State of U.P. And anr., passed in criminal appeal no. 1265/2017** dated 27.7.2017 as observed in para 14, as under :-

“14. Section 498-A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the statement of Objects and Reasons of the Act 46 of 1983. The expression “cruelty” in Section 498A covers conduct which may drive the women to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand. It is a matter of serious concern that large number of cases continue to be filed under already referred to some of the statistics from the Crime Records Bureau. This

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Court had earlier noticed the fact that most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualized. At times such complaints lead to uncalled for harassment not only to the accused but also to the complainant. Uncalled for arrest may ruin the chances of settlement”.

12. In view of the aforesaid enunciation of law and in the facts and circumstances of the case, in view of this Court, the instant petition deserves to be allowed as in the aforesaid circumstances if the proceedings continued against the applicants, it would amount to abuse of the process of the court and would cause grave injustice to the applicants. In the circumstances, this petition is allowed and the proceedings of the Criminal Case No. 389/2018 pending before the Additional Chief Judicial Magistrate, Punasa, District Khandwa is hereby quashed.”

17. Considering the law as has been laid down by the High Court in number of cases, relying upon the view taken by the Supreme Court, I find substance in the submission made by learned counsel for the applicants that in the present case also, the FIR has been lodged by the non-applicant no.2/wife only to harass the applicant no.1 and his family members. Her statement filed along with the charge-sheet clearly reflects that she approached the police only because applicant no.1 was going to marry another lady. The allegations made against the applicants in the report lodged to the police and the statement given by her were relating to the incidents that occurred almost two years prior to the date of FIR. She did not disclose as to why at the relevant point of time, she did not make any complaint. She has also not disclosed and not stated when she started living separately from 2016, she did not lodge any report to the police but only after coming to know about filing of the suit and fact of marriage of the non-applicant no.2 with another lady, the complaint/FIR was lodged to the police. It can be easily presumed that it is nothing but an after-thought and the allegations made in the FIR are improbable and do not

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constitute the offence as alleged against the applicants.

18. Therefore, the impugned order passed by the court below framing charges against the applicants is not sustainable and it is accordingly set aside for the reason that the Court below did not consider the material aspect which has been discussed by this Court hereinabove. Accordingly, the application filed by the applicants under Section 227 of Cr.P.C. is accordingly allowed. The applicants are discharged from the offences registered vide SCATR No. 38/2020.

Ex consequentia, the criminal revision is **allowed**.

(SANJAY DWIVEDI)
J U D G E

rao

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SAI RAO

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