



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR
ON THE 13th OF NOVEMBER, 2024
MISC. CRIMINAL CASE No. 19771 of 2024
AMAN AND OTHERS
Versus
*THE STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri Abhijeet Dube - Advocate for the petitioners.
Shri Raghav Shrivastava – G.A./P.L. for respondent No.1/State.
Shri Madhur Tiwari – Advocate for respondent
No.2/complainant.

ORDER

- 1] Heard finally, with the consent of the parties.
- 2] This petition has been filed by the petitioners under Section 482 of Cr.P.C. for quashing the FIR lodged at Crime No.163 of 2021 on 04.03.2021, at Police Station – Chandan Nagar, Indore under Sections 354(A), 354(B), 376, 323, 294, 506, 34 & 498A of IPC and Sections 3 & 4 of The Dowry Prohibition Act, 1961, and the subsequent proceedings arising out of the aforesaid crime number.
- 3] In brief, the facts of the case are that the aforesaid FIR was lodged by the complainant/respondent No.2 alleging that she was harassed by the petitioners, who committed the aforesaid offences against her as she was married to petitioner No.1 Aman Tiwari on



26.02.2020. The FIR has been lodged almost after one year of the marriage. As per the FIR, the petitioner No.1 Aman Tiwari and respondent No.2 solemnized a love marriage on 30.01.2020, as both of them were working as teachers in Engineering College at Rau, District – Indore. It is alleged that the complainant's side spent more than Rs.10 lakh in the marriage, however, soon after the marriage, the family members of the petitioner No.1 started harassing the respondent No.2 wife for not bringing the adequate dowry. They also started saying that if they had married their son to some other place, they would have got huge dowry and a car. It is also alleged that the mother-in-law of the respondent No.2 forcibly took the ornaments from the complainant and kept with her. It is also alleged that the complainant was subjected to unnatural intercourse and her husband's brother also started outraging her modesty, and used to abuse and beat her also. It is also alleged that one night when she was sleeping with her husband, her husband called his brother petitioner No.4 Arjit to sleep between them, who also kept his hand on her, and at that time her husband also demanded unnatural sex from her in front of her brother-in-law, and she was also assaulted on the said night and when she informed her mother-in-law about the same, she also stated that it must be her own fault. It is also alleged in the FIR that her husband also tore her clothes and took a video of her and also used to force her to watch porn videos. It is also alleged that her husband had also taken her video of their first night and



was threatening her that he would viral the same. It is also alleged that her husband was in contact with one Narendra Bariya and Sanjay Soni, whereas he used to treat Narendra Bariya as his *Guru*, and he also told her that these people will also have a right on her body and on one such day, both these persons were also tried to outrage her modesty, however, she ran away, but she was threatened not to report the incident to any person, however, she got an FIR registered against the said persons, but after they were released on bail, they have again started harassing her, and his husband also told her that he has already sold her to Sanjay for a sum of Rs.2 lakh, and that she should start residing in their *Aashram* as *Daasee*. Thus, it is alleged that when the atrocities committed by the accused persons became unbearable, she has lodged the report. She has also stated that all the videos are also lying with accused Aman Tiwari.

4] Shri Abhijeet Dube, learned counsel for the petitioners has submitted that a total false case has been lodged against the petitioners, who belong to a well educated family. It is submitted that even according to the respondent No.2/complainant, she and the petitioner No.1 Aman were teaching in an Engineering College. It is submitted that in the entire charge-sheet no such video clips or photographs have been seized by the police, which, according to the complainant, were taken by the petitioner No.1.

5] Counsel has also submitted that the petitioner No.1 is a Civil Engineer and has completed his B.E.(Civil) from IGUIT



(RGPV), Bhopal and M.Tech (Construction Technology and Management) from Samrat Ashok Technological Institute, Vidisha, whereas his brother petitioner No.4 Arjit is also a Engineer and has completed his education from Technician Membership Examination (TIIE) (Equivalent to three years State Board of Technical Education (Govt. of India) Polytechnic Engineering) from Indian Institute of Engineering and Associate Membership Examination (AMIIE) (Equivalent to B.Tech/B.E. Engineering) from Indian Institute of Engineers, Delhi, the documents regarding which have also been filed on record. It is also submitted that presently petitioner No.1 is working as a site Engineer in Surat Metro Rail Project, Gujarat. Copy of which is also filed on record, whereas petitioner No.4 is a senior site Engineer Expert in Mumbai Ahmadabad High Speed Rail, Project in Surat, Gujarat.

6] It is also submitted that a civil suit was also filed by the petitioner No.1 on 09.01.2021, against the respondent No.2/complainant and one Ishwar Joshi for declaration and permanent injunction regarding the dispute between them, which is still pending in the Civil Court at Indore. It is also submitted that the petitioner No.1 has already filed a divorce petition against the respondent No.2/complainant on 16.02.2021, and only as a counterblast to the aforesaid civil cases, a false case has been registered on 04.03.2021, which is the present FIR.

7] Counsel for the petitioners has also submitted that,



admittedly, it was a love marriage and was solemnized in Arya Samaj temple, and hence, there was no question of demand of any dowry etc. Thus, it is submitted that the FIR and the subsequent proceedings be quashed as apart from omnibus allegations, there is nothing on record to connect the petitioners with the offence.

8] The prayer is vehemently opposed by the counsel for the respondent No.2 and it is submitted that the petitioners have inflicted extreme atrocities on the complainant/respondent No.2, which led her to lodge the FIR. It is submitted that the petitioner No.1 also used to take his wife complainant to other persons to satisfy their lust, and whereas, the petitioner No.4 also used to outrage the modesty of the respondent No.2/complainant. Counsel for the complainant has also submitted that the respondent No.2 has already been examined in the trial Court. In such circumstances, no case for interference is made out. Copy of her deposition is also filed on record.

9] Counsel for the State has also opposed the prayer.

10] Heard counsel for the parties and perused the record.

11] From the record, it is apparent that the marriage of petitioner No.1 was solemnized with the complainant through Arya Samaj on 26.02.2020, whereas the FIR has been lodged on 04.03.2021, and it is alleged that during all this period, the complainant was treated with cruelty as aforesaid.

12] From the M.L.C. dated 04.03.2021, it is found that the



complainant, as per the history given to the doctor, has stated that her husband has left her around four months ago. Apparently, in the M.L.C., the doctor has not given any opinion about the rape as claimed by the respondent No.2/complainant. Thus, apparently, there was delay of at least four months in lodging the FIR. This court finds that apart from the verbal allegations, there is nothing on record to connect the petitioners with the offence. It is also found that the complainant herself is well educated, whereas, the petitioner Nos.1 and 4 are also qualified Engineers, the documents regarding which, have already been filed on record, which have not been rebutted by the respondent No.2, whereas petitioner Nos.2 and 3 are the father-in-law and mother-in-law of the respondent No.2.

13] It is also found that a civil suit has also been filed by the petitioner No.1 on 09.01.2021, against the respondent No.2/complainant and one Ishwar Joshi for declaration and permanent injunction regarding the dispute between them. Whereas a matrimonial dispute exists between the parties as the petitioner No.1 has already filed a divorce petition against the respondent No.2/complainant on 16.02.2021, whereas the present FIR has been lodged by the complainant on 04.03.2021, which appears to be an act of wreaking vengeance on the accused/petitioners, only as a counterblast to the civil cases.

14] In this regard, reference may also be had to the decision rendered by the Supreme Court in the case of **Abhishek Vs. State**



of Madhya Pradesh passed in **Criminal Appeal No.1457 of 2015** dated **31.08.2023** reported as **2023 SCC OnLine SC 1083**, relevant para of the same reads as under:-

“13. Instances of a husband's family members filing a petition to quash criminal proceedings launched against them by his wife in the midst of matrimonial disputes are neither a rarity nor of recent origin. Precedents aplenty abound on this score. We may now take note of some decisions of particular relevance. Recently, in *Kahkashan Kausar alias Sonam v. State of Bihar* [(2022) 6 SCC 599], this Court had occasion to deal with a similar situation where the High Court had refused to quash a FIR registered for various offences, including Section 498A IPC. Noting that the foremost issue that required determination was whether allegations made against the in-laws were general omnibus allegations which would be liable to be quashed, this Court referred to earlier decisions wherein concern was expressed over the misuse of Section 498A IPC and the increased tendency to implicate relatives of the husband in matrimonial disputes. This Court observed that false implications by way of general omnibus allegations made in the course of matrimonial disputes, if left unchecked, would result in misuse of the process of law. On the facts of that case, it was found that no specific allegations were made against the in-laws by the wife and it was held that allowing their prosecution in the absence of clear allegations against the in-laws would result in an abuse of the process of law. It was also noted that a criminal trial, leading to an eventual acquittal, would inflict severe scars upon the accused and such an exercise ought to be discouraged.”

(Emphasis Supplied)

15] At this juncture, it would be apt to refer to the decision rendered by the Apex Court in the case of *Achin Gupta Vs. State of Haryana and another* reported as **2024 SCC online SC 759**, the relevant paras of the same (relevant excerpts only) read as under:-

22. Once the investigation is over and chargesheet is filed, the FIR pales into insignificance. The court, thereafter, owes a duty to look into all the materials collected by the investigating



agency in the form of chargesheet. There is nothing in the words of Section 482 of the Cr.P.C. which restricts the exercise of the power of the court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It would be a travesty of justice to hold that the proceedings initiated against a person can be interfered with at the stage of FIR but not if it has materialized into a chargesheet.

23. In *R.P. Kapur v. State of Punjab* reported in AIR 1960 SC 866, this Court summarised some categories of cases where inherent power can, and should be exercised to quash the proceedings:-

(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. 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.

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25. If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it is nothing but abuse of the process of the court. The court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, prima facie, whether there is any grain of truth in the allegations or whether they are made only with the sole object of involving certain individuals in a criminal charge, more particularly when a prosecution arises from a matrimonial dispute.

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30. In the aforesaid context, we should look into the category 7 as indicated by this Court in the case of *Bhajan Lal (supra)*. The category 7 as laid reads thus:-

"(7) 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."

31. We are of the view that the category 7 referred to above



should be taken into consideration and applied in a case like the one on hand a bit liberally. If the Court is convinced by the fact that the involvement by the complainant of her husband and his close relatives is with an oblique motive then even if the FIR and the chargesheet disclose the commission of a cognizable offence the Court with a view to doing substantial justice should read in between the lines the oblique motive of the complainant and take a pragmatic view of the matter.

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35. In one of the recent pronouncements of this Court in *Mahmood Ali & Ors. v. State of U.P & Ors.*, 2023 SCC OnLine SC 950, authored by one of us (J.B. Pardiwala, J.), the legal principle applicable apropos Section 482 of the CrPC was examined. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 CrPC or the extraordinary jurisdiction under Article 226 of the Constitution, to get the FIR or the criminal proceedings quashed, essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive of wreaking vengeance, then in such circumstances, the High Court owes a duty to look into the FIR with care and a little more closely. It was further observed that it will not be 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 as, in frivolous or 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 and, if need be, with due care and circumspection, to try and read between the lines.

36. For the foregoing reasons, we have reached to the conclusion that if the criminal proceedings are allowed to continue against the Appellant, the same will be nothing short of abuse of process of law & travesty of justice. This is a fit case wherein, the High Court should have exercised its inherent power under Section 482 of the Cr.P.C. for the purpose of quashing the criminal proceedings.”

(Emphasis Supplied)

16] It is also found that the examination-in-chief of respondent No.2 has taken place in the trial Court on 06.09.2024 and she has not yet been cross-examined. Be that as it may, this Court is of



the considered opinion that under the facts and circumstances of the case, this Court is satisfied that petitioner no.1 and his family members have been falsely implicated in the criminal case due to matrimonial dispute between the petitioner no.1 and his wife, the respondent no.2 herein, and the continuation of trial against them would only amount to misuse of the process of the Court.

17] Accordingly, the petition **stands allowed**, and the FIR lodged at Crime No.163 of 2021 on 04.03.2021 at Police Station – Chandan Nagar, Indore under Sections 354(A), 354(B), 376, 323, 294, 506, 34 & 498A of IPC and Sections 3 & 4 of The Dowry Prohibition Act, 1961 and the consequential proceedings arising out of the aforesaid crime number are hereby quashed.

18] With the aforesaid, the petition stands *allowed* and *disposed of*.

(SUBODH ABHYANKAR)
JUDGE

Pankaj