



2025:CGHC:25349-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 36 of 2025

1 - Toran Chandravanshi S/o Dwarika Chandravanshi Aged About 45 Years.

2 – Madhu W/o Toran Chandravanshi aged about 35 years,
(both are R/o Daukabhandha Police Station Pipariya District Kabirdham C.G. Present Address Joratal Jail Road Kawardha Police Station Kawardha District Kabirdham C.G.)

--- **Petitioner(s)**

versus

1 - State Of Chhattisgarh Throuh Station House Officer Police Station Kawardha District Kabirham C,g.

2 - Smt.Suman Chandravanshi W/o /shri Dilip Chandravashi Aged About 33 Years R/o Doingariya Kala Police Station Pandatarai Tahsil Pandariya District Kabirdham C.G.

--- **Respondent(s)**

CRMP No. 3182 of 2024

1 - Dilip Chandravanshi S/o Dwarika Chandravanshi Aged About 42 Years R/o Daukabandha, Police Station Pipariya, District Kabirdham, Chhattisgarh. Present Address Joratal Jail Road Kawardha, Police Station Kawardha, District Kabirdham, Chhattisgarh. (Defendant)

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Station House Officer Police Staion Kawardha, District Kabirdham, Chhattisgarh.

2 - Smt. Suman Chandravanshi W/o Shri Dilip Chandravanshi
 Aged About 32 Years R/o Dongariya Kala Police Station
 Pandatarai, Tahsil Pandariya, District Kabirdham, Chhattisgarh.

... Respondents

For Petitioners : Mr. Shivam Agrawal, Advocate.
 For Respondent/State : Mr. Nitansh Jaiswal, Panel Lawyer.
 For Respondent No.2 : Mr. Dharmesh Shrivastava, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

18.06.2025

1. Since both the petitions arising out of same crime, and the facts and grounds as also relief is same, therefore, they are being considered and decided by this common order.
2. The present petitions have been filed by the petitioners with the following prayers:-

"It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to allow the instant criminal miscellaneous petition in the respect of the petitioners, and quash the FIR No. 726/2023 registered u/s 498A of the I.P.C. with Final Report dated 07/01/2024 submitted by respondent no. 1 before the Ld. Chief Judicial Magistrate Kawardha District Kabirdham C.G. and further it is also prayed that this Hon'ble Court may graciously be pleased to quash the ongoing trial against the petitioners i.e. State Vs Dilip Chandravanshi & Ors bearing Criminal Case No.

899/2024 pending before the Ld. Chief Judicial Magistrate Kawardha District Kabirdham C.G. in the interest of Justice.”

3. Learned counsel for the petitioners submits that there is a matrimonial dispute between the petitioner (Dilip Chandravanshi) in CRMP No.3182/2024 and respondent No.2/wife. He submits that after the marriage of respondent No.2 and the petitioner/Dilip Chandravanshi, two children were born in the year 2011 and 2013 respectively. He submits that the allegation against the the petitioners is that the petitioners used to torture the respondent No.2 to bring dowry of Rs.5 lac. He further submits that the financial condition of the petitioner/husband got deteriorated and he had asked his brother to allow him to reside in his home, but after residing there for approximately one month, the respondent No.2 left the house and registered the FIR against the petitioner along with his elder brother (jeth) and his wife (Jethnai) under Section 498-A r/w 34 of the IPC. He further submits that the marriage between the respondent No.2 and petitioner was solemnized in the year 2010 and FIR was registered in the year 2023 and it is alleged that after her marriage within one year, the petitioner started torturing with the demand of Rs.5 lac, which prima facie raises question on the intention of respondent no. 2 for the delay of 13 years in registering of the FIR, for which there has been no explanation. No any

report/complaint was made by the prosecution side regarding dowry harassment.

4. Learned counsel for the respondents opposes the submission made by learned counsel for the petitioners and submits that the dowry demand of Rs.5 lac has been made and tortured the respondent No.2, due to which, offence under Section 498 A r/w 34 of IPC has been registered against the petitioners.
5. We have heard learned counsel for the parties, perused the pleadings and documents.
6. The Supreme Court in the matter of **State of Haryana and others v. Bhajan Lal and others**¹ laid down the principles of law relating to the exercise of extraordinary power under Article 226 of the Constitution of India to quash the first information report and it has been held that such power can be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice. In paragraph 102 of the report, their Lordships laid down the broad principles where such power under Article 226 of the Constitution/Section 482 of the CrPC should be exercised, which are as under: -

7. "102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code

¹ 1992 Supp (1) SCC 335

which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1)Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2)Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3)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.

(4)Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5)Where the allegations made in the

FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6)Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(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.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice."

8. Having noticed the scope of interference by this Court in the petition relating to quashment of FIR, reverting to the facts of

the present case, it is quite vivid that in the impugned FIR, three petitioners have been charged for offence under Sections 498-A, 34 of the IPC.

9. Chapter XXA of the IPC deals with offence of cruelty by husband or relatives of husband. Section 498A of the IPC defines the offence of cruelty as under:-

“498A. Husband or relative of 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 purpose 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.”

10. A careful perusal of the aforesaid provision would show that in order to establish offence under Section 498A of the IPC, the prosecution must establish,

- (i) That, woman must be married;
- (ii) She has been subjected to cruelty or harassment and
- (iii) Such cruelty or harassment must have been shown either by husband of the woman or by

relative of her husband.

11. The word 'cruelty' within the meaning of Section 498/A of the IPC has been explained in Explanation appended to Section 498A of the IPC. It consists of two clauses namely clause (a) and clause (b). To attract Section 498A of the IPC, it must be established that cruelty or harassment to the wife to coerce her or cause bodily injury to herself or to commit suicide or the harassment was to compel her to fulfill illegal demand for dowry. It is not every type of harassment or cruelty that would attract Section 498/A of the IPC. Explanation (b) to Section 498A of the IPC contemplates harassment of woman to coerce or any relation of her to meet any unlawful demand for any property or valuable security. The complainant if wants to come within the ambit of Explanation (b) to Section 498A of the IPC, she can succeed if it is proved that there was an unlawful demand by the husband or any of his relatives with respect to money or of some valuable security.

12. Similarly, in the matter of **Sunder Babu and others v. State of Tamil Nadu**² delay in filing complaint against accused therein was taken note of by their Lordships of the Supreme Court holding the case to be covered by Category Seven of para-102 highlighted in Bhajan Lal's case (supra), the prosecution for offence under Section 498A of the IPC and Section 4 of the Dowry Prohibition Act was quashed.

² (2009) 14 SCC 244

13. In the matter of **K. Subba Rao and others v. State of Telangana represented by its Secretary, Department of Home and others**³ their Lordships of the Supreme Court delineated the duty of the criminal Courts while proceeding against relatives of victim's husband and held that the Court should be careful in proceeding against distant relatives in crime pertaining to matrimonial disputes and dowry deaths and further held that relatives of husband should not be roped in on the basis of omnibus allegations, unless specific instances of their involvement in offences are made out.
14. Similarly, in the matter of **Geeta Mehrotra** (supra), the Supreme Court held that casual reference to the family member of the husband in FIR as co-accused particularly when there is no specific allegation and complaint did not disclose their active involvement. It was held that cognizance of matter against them for offence under Sections 498-A, 34 of the IPC would not be justified as cognizance would result in abuse of judicial process.
15. Having noticed the legal position *qua* quashing the FIR, the question would be whether taking the contents of the FIR as it is, offence under Sections 498-A, 34 of the IPC?
16. In the present case, prior to registration of the FIR a preliminary enquiry has been conducted and in the preliminary enquiry, it was found that there is prima facie cognizable case is

3 (2018) 14 SCC 452

made out against the petitioners, thus on the basis of said written report, offence under the aforementioned sections has been registered against the petitioners and investigation is going on.

17. In the complaint so made, the complainant has only made omnibus and general allegations against her husband, Jeth & Jethani without being full particulars about and date and place. There is no specific allegation against the petitioners except common and general allegations against them.

18. Considering the submissions of the learned counsel for the parties, material available on record; perusing the FIR in which no specific allegations have been made and only bald and omnibus allegations have been made against the petitioner No.1-Toran Chandravanshi (Jeth) and petitioner No.2-Madhu (Jethani) in CRMP No.36/2025 and specific allegations have been made against the petitioner-Dilip Chandravanshi/husband in CRMP No.3182/2024, we are of the considered opinion that prima-facie no offence under Section 498-A, 34 of the IPC is made out for prosecuting petitioner No.1-Toran Chandravanshi and petitioner No.2-Madhu in CRMP No.36/2025 for the above-stated offences and the prosecution against them for the aforesaid offence is covered by Category 1, 3 & 7 of para-102 of the judgment rendered by the Supreme Court in Bhajan Lal's case (supra) and as such, liable to be quashed.

19. As a fallout and consequence of the above-stated legal analysis, FIR bearing No. 726/2023 registered at Police Station-Kabirdham, Chhattisgarh on 31/10/2023 for offence under Sections 498-A, 34 of the IPC, charge-sheet and consequential proceeding in Criminal Case No.899/2024 are hereby **quashed to the extent of petitioner No.1-Toran Chandravanshi and petitioner No.2-Madhu in CRMP No.36/2025**. However, prosecution against the husband of respondent No.2 i.e. petitioner-Dilip Chandravanshi shall continue and be concluded expeditiously.

20. It is made clear that all the observations made in this order are for the purpose of deciding the petition filed by the petitioners hereinabove and this Court has not expressed any opinion on merits of the matter.

21. Resultantly, the petition(CRMP No.3182/2024) filed by the petitioner/husband is **dismissed** and the petition (CRMP No.36/2025) so far it relates to petitioner No.1-Toran Chandravanshi and petitioner No.2-Madhu stands **allowed**.

SD/-

(Bibhu Datta Guru)
Judge

SD/-

(Ramesh Sinha)
Chief Justice