



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 2nd OF AUGUST, 2024

MISC. CRIMINAL CASE No. 491 of 2024

ARJUN RAGHUWANSHI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Jitendra Verma, learned counsel for the Petitioner.

Shri Surendra Kumar Gupta, learned counsel for the State.

None present for the respondent No.2/complainant.

ORDER

1] None for respondent No.2/complainant despite service of notice, and despite filing of Vakalatnama. On the last date of hearing also, nobody had appeared for respondent No.2 and it was observed that no further adjournment shall be granted. Thus, the matter is heard finally.

2] This petition has been filed by the petitioner under Section 482 of Cr.P.C. for quashment of FIR, as well as the charge sheet filed against the petitioner at Crime No.468/2023 registered at Police Station Sagor, District Dhar for offence punishable under Section 498-A, 294, 323, 506 of IPC. The FIR has been lodged by the respondent no.2-complainant Diksha Raghuwanshi who is the wife



of Pankaj Raghuwanshi, against four persons namely; Pankaj Raghuwanshi, Samandar Raghuwanshi, father-in-law, Manohar Raghuwanshi, brother-in-law and Arjun Raghuwanshi, brother-in-law.

3] In brief, the facts of the case are that the aforesaid FIR was lodged on 08/11/2023 in respect of the incident which took place on 07/11/2023 and the allegations against the accused persons were that soon after the marriage of respondent No.2 with the brother of the petitioner Pankaj Raghuwanshi on 07/12/2020, she was being harassed by the accused persons, and still she stayed for around two years in her maternal home, however, she came back to her matrimonial home on 02/11/2023, after her husband Pankaj Raghuwanshi assured her that he would keep her with dignity. However, on 07/11/2023 at around 6:30 pm, her husband assaulted her and asked her to bring money from her parents and other accused persons also supported her husband and intended to burn her alive.

4] Counsel for the petitioner has drawn the attention of this Court to an NCR (None Cognizable Offence Report) under Section 155 of Cr.P.C. recorded at the instance of respondent No.2 herself on 07/11/2023, wherein she had alleged offence under Section 504 and 323 of IPC against her husband Pankaj Raghuwanshi and brother-in-law Manohar Raghuwanshi only, in which, it was alleged that Pankaj Raghuwanshi had asked her for money to bring some goods. Counsel has submitted that the present petitioner happens to be a practising advocate at Dhar and has been falsely implicated in the aforesaid



case merely because he happens to be the younger brother of Pankaj Raghuwanshi. It is further submitted that the petitioner was not involved in the aforesaid incident which is apparent from the NCR filed on record, and even otherwise also, in the FIR which has been lodged on the other day in respect of the same incident, the only allegation against the petitioner is that he was standing on the spot and abused the complainant.

5] In support of his submissions, counsel for the petitioner has relied upon the decision of the Supreme Court in the case of *Kanchan Sharma vs. State of U.P. and another reported as (2021) 13 SCC 806* and in the case of *Kahkashan Kausar @ Sonam & Ors. Vs. State of Bihar & Ors. reported as 2022 (6) SCC 599* and in the case of *Rukmini Narvekar Vs. Vijaya Satardekar and Others reported as (2008) 14 SCC 1, para 38*. Counsel has also drawn the attention of this Court to an application filed by respondent No.2 under Section 125 of Cr.P.C., in which also, there are no allegation against the present petitioner.

6] On the other hand, learned counsel appearing for the respondent/State has opposed the prayer and it is submitted that no case for interference is made out.

7] Heard, counsel for the parties and perused the record.

8] The Supreme Court in the case of *Achin Gupta Vs. State of Haryana and another* reported as *2024 SCC online SC 759*, has held as under:-

“16. That in this way, the Accused persons have ignored the first informant due to their dowry demand and they have even not returned the first informant her stridhan and are threatening that if without fulfilling their demand of dowry, the first informant comes to



their house, they will kill her. Thus, by giving this complaint, a request is being made to take immediate action against the accused persons for demanding dowry, giving beatings and threatening me to kill and my stridhan be recovered from the accused persons. It will be so kind of you."

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22. Once the investigation is over and charge sheet 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 charge sheet. 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 charge sheet.

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.

If the submission canvassed by the counsel appearing for the Respondent No. 2 and the State is to be accepted mechanically then in our opinion the very conferment of the inherent power by the Cr.P.C. upon the High Court would be rendered otiose. We are saying so for the simple reason that if the wife on account of matrimonial disputes decides to harass her husband and his family members then the first thing, she would ensure is to see that proper allegations are levelled in the First Information Report. Many times the services of professionals are availed for the same and once the complaint is drafted by a legal mind, it would be very difficult thereafter to weed out any loopholes or other deficiencies in the same. However, that does not mean that the Court should shut its eyes and raise its hands in helplessness, saying that whether true or false, there are allegations in the First Information Report and the chargesheet papers disclose the commission of a cognizable offence. If the allegations alone as levelled, more particularly in the case like the one on hand, are to be looked into or considered then why the investigating agency thought fit to file a closure report against the other co-accused? There is no answer to this at the end of the learned counsel appearing for the State. We say so, because allegations have been levelled not only against the Appellant herein but even against his parents, brother & sister. If that be so, then why the police did not deem fit to file chargesheet against the other co-accused? It appears that even the investigating agency was convinced that the FIR was nothing but an outburst arising from a matrimonial dispute.

32. Many times, the parents including the close relatives of the wife make a mountain out of a mole. Instead of salvaging the situation and making all possible endeavours to save the marriage, their action either due to ignorance or on account of sheer hatred towards the husband and his family members, brings about complete destruction of marriage on trivial issues. The first thing that comes in the mind of the wife, her parents and her relatives is the Police, as if the Police is the panacea of all evil. No sooner the matter reaches up to the Police, then even if there are fair chances of reconciliation between the spouses, they would get destroyed.



The foundation of a sound marriage is tolerance, adjustment and respecting one another. Tolerance to each other's fault to a certain bearable extent has to be inherent in every marriage. Petty quibbles, trifling differences are mundane matters and should not be exaggerated and blown out of proportion to destroy what is said to have been made in the heaven. The Court must appreciate that all quarrels must be weighed from that point of view in determining what constitutes cruelty in each particular case, always keeping in view the physical and mental conditions of the parties, their character and social status. A very technical and hyper sensitive approach would prove to be disastrous for the very institution of the marriage. In matrimonial disputes the main sufferers are the children. The spouses fight with such venom in their heart that they do not think even for a second that if the marriage would come to an end, then what will be the effect on their children. Divorce plays a very dubious role so far as the upbringing of the children is concerned. The only reason why we are saying so is that instead of handling the whole issue delicately, the initiation of criminal proceedings would bring about nothing but hatred for each other. There may be cases of genuine ill-treatment and harassment by the husband and his family members towards the wife. The degree of such ill-treatment or harassment may vary. However, the Police machinery should be resorted to as a measure of last resort and that too in a very genuine case of cruelty and harassment. The Police machinery cannot be utilized for the purpose of holding the husband at ransom so that he could be squeezed by the wife at the instigation of her parents or relatives or friends. In all cases, where wife complains of harassment or ill-treatment, Section 498A of the IPC cannot be applied mechanically. No FIR is complete without Sections 506(2) and 323 of the IPC. Every matrimonial conduct, which may cause annoyance to the other, may not amount to cruelty. Mere trivial irritations, quarrels between spouses, which happen in day-to-day married life, may also not amount to cruelty.

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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)

9] The Supreme Court in the case of ***Rukmini Narvekar (Supra)***, in para 38 has held as under:-

“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 material as are indicated in Section 227 Cr.P.C. can be taken into consideration by the learned magistrate at that stage. However, in a proceeding taken therefrom under Section 482 Cr.P.C. the Court is free to consider material that may be produced on behalf of the accused to 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's* case (supra) by the larger Bench to which the very same question had been referred.”

(Emphasis Supplied)

10] On perusal of the documents filed on record, it is found that so far as the present petitioner is concerned, he is the brother of husband of the complainant and the only allegation against him is that he was standing on the spot and abused the complainant on the date of incident. It is also found that on 07/11/2023, an NCR (None Cognizable Offence Report) under Section 155 of Cr.P.C. was also filed at the instance of respondent No.2 herself, wherein she had alleged offence under Section 504 and 323 of IPC against her husband Pankaj Raghuwanshi and brother-in-law Manohar



Raghuwanshi only and not the petitioner Arjun Raghuvanshi.

11] In such circumstances, the allegations levelled against him *prima facie* appear to be concocted and motivated, and thus, his false implication in the present case by the respondent No.2 on account of his being the brother of the husband of the respondent No.2 cannot be ruled out.

12] Therefore, the continuation of the criminal proceedings so far as the present petitioner is concerned, would amount to the misuse of the process of the court, and this Court is inclined to quash the same.

13] As a result, the petition is allowed and the FIR lodged at Crime No.468/2023 registered at Police Station Sagor, District Dhar for offence punishable under Section 498-A, 294, 323, 506 of IPC, so far as relates to the petitioner Arjun Raghuwanshi, is hereby quashed.

14] With the aforesaid, the petition stands *allowed*.

Sd/-

(SUBODH ABHYANKAR)
JUDGE

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