



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 5TH DAY OF SEPTEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 101804 OF 2019

BETWEEN:

SRI.VIVEKANANDA S/O CHANNAPPA KEMALI,
AGE: 48 YEARS, OCC: BUSINESS,
R/O: VIDYAGIRI, 3RD CROSS,
BAGALKOT, TQ & DIST: BAGALKOT.

... PETITIONER

(BY SRI. K.S. PATIL, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
THROUGH PSI, NAVANAGAR POLICE STATION,
BAGALKOT, R/BY SPP,
HIGH COURT OF KARNATAKA,
DHARWAD.

2. REKHA W/O VIVEKANANDA KEMALI,
AGE: 42 YEARS, OCC: HOUSE-HOLD,
R/O: VIDYAGIRI, 3RD CROSS,
BAGALKOT, NOW AT H.NO.24,
SHIVAPUR COLONY, GOKUL ROAD,
HUBBALLI-580030, DIST: DHARWAD.

... RESPONDENTS

(BY SRI. V.S. KALASURMATH, HCGP FOR R1;
SRI. G.I. GACHCHINAMATH, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED U/S 482 OF CR.P.C.
SEEKING TO QUASH ENTIRE PROCEEDINGS IN C.C.NO.2127/2018
REGISTERED FOR THE OFFENCES U/S 498-A, 504, 506 OF IPC ON
THE FILE OF THE PRL.CIVIL JUDGE & JMFC COURT, HUBBALLI, AS
AGAINST THE PETITIONER/ACCUSED NO.1.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, THE
COURT MADE THE FOLLOWING:





ORDER

1. The petitioner is before this Court calling in question the proceedings in C.C. No.2127/2018 registered for offences punishable under Sections 498A, 504, 506 of the IPC.

2. Facts adumbrated, are as follows:

The 2nd respondent is the complainant – wife of the petitioner – accused No.1. The two are married for over 15 years as on the date of registration of the complaint, and have a 14 years old son from the wedlock. It transpires that the relationship between the petitioner and the complainant floundered, on several grievances between the two. On such floundering of relationship between the two, a compliant comes to be registered by the 2nd respondent on 26.08.2016 initially for the offences punishable under Sections 498A, 323, 324B, 504, 506 and 34 of the IPC. On registration of the crime, in Crime No.79/2016, the Police conducted investigation and the result of the investigation is filing of the charge sheet only



against the petitioner. All the other members of the family who were arrayed as accused at the time when the crime was registered, were all dropped. The filing of the charge sheet and taking of cognizance by the concerned Court is what drives the petitioner to this Court is the subject petition.

3. Heard the learned counsel Sri.K.S.Patil appearing for the petitioner and the learned counsel Sri.G.I.Gachhinamath and the learned HCGP for the respondents.

4. The learned counsel Sri.K.S.Patil would seek to contend that the narration in the complaint is only a day today happenings in the family between the husband and wife. Triviality is nullified and is sought to be projected as a crime against the petitioner for offences punishable under Sections 498A of the IPC. He would further contend that neither the complaint nor the summary of the charge sheet would indicate any ingredient of offences punishable under Sections 498A or 504 or 506 of the IPC.



5. On the other hand, learned counsel Sri.G.I.Gachhinamath representing the 2nd respondent – complainant would vehemently refute the submissions of the learned counsel appearing for the petitioner contending that the complaint narrates everything, it may not be worded in a manner of a good draft contains the allegations against the husband in the least and therefore, further proceedings should be permitted to be continued. He would take this Court through the further statement recorded by the complainant to demonstrate that there are allegations against the petitioner specifying certain overt acts.

6. The learned HCGP would toe in the lines of the learned counsel appearing for the 2nd respondent in seeking dismissal of the petition as the Police have filed the charge sheet and the matter is to be tried and it is for the petitioner to come out clean in the trial.

7. I have given my anxious consideration to the submissions made by the respective counsel and have perused the material on record.



8. The afore-narrated facts of the relationship between the petitioner and the complainant are not in dispute. The marriage between the two, was by the date of registration of the crime 15 years old, and the couple had a 14 years old son from the wedlock. On 25.08.2016 happening of an incident between the husband and wife is sought to become the fulcrum of the complaint. The content is that the complainant asks for money to bring certain material for performance of *pooja* that is not accepted by the husband. The rejection is projected to be a quarrel between the two and a complaint is registered. Since the entire issue has now sprung from the complaint, I deem it appropriate to notice the complaint so registered by the 2nd respondent which reads as follows:

"ಮಾನ್ಯ ಪಿ. ಎಸ್. ಐ. ಸಾಹೇಬರು ಬಾಗಲಕೋಟೆ, ನವನಗರ
ಪೊಲೀಸರ ರಾಣಿ ಇವರಿಗೆ:-

ನಾನು ರೇಖಾ ಗಂಡ ವಿವೇಕಾನಂದ ಕೇಮಾಳಿ 39 ವರ್ಷ ಉದ್ಯೋಗ
ಮನೆಕೆಲಸ ಸಾಕೀನ ಬಾಗಲಕೋಟೆ ವಿದ್ಯಾಗಿರಿ 3rd Cross.

Mobile No. 8884208441

ಬರೆದು ಕೊಟ್ಟ ಫಿರ್ಯಾದಿ ದಿನಾಂಕ: 26-08-2016,



ನಾನು ಮೇಲಿನ ನಿವಾಸದಲ್ಲಿ ವಾಸವಾಗಿದ್ದು, ನಾನು ಮನೆಕೆಲಸ ಮಾಡಿಕೊಂಡು ಇರುತ್ತನೆ, ನನ್ನ ತವರು ಮನೆ ಹುಬ್ಬಳ್ಳಿ ಇದ್ದು ವಿವೇಕಾನಂದ ಕೇಮಾಳಿ ಇವರ ಜೊತೆ ನಮ್ಮ ಸಮಾಜದ ರೀತಿ ರಿವಾಜದ ಪ್ರಕಾರ ಮದುವೆ ಮಾಡಿಕೊಂಡಿದ್ದು ಈಗ ಮದುವೆಯಾಗಿ 15 ವರ್ಷ ಆಗಿರುತ್ತದೆ. ನಮ್ಮ ಮನೆಯವರು ಬಸವೇಶ್ವರ ಬ್ಯಾಂಕಿನಲ್ಲಿ F.D.C. ಕ್ಲರ್ಕಿಯೆಂದು ಕೆಲಸ ಮಾಡುತ್ತಾರೆ, ನಮಗೆ ಒಬ್ಬ ಮಗನಿರುತ್ತಾನೆ. ಅವನ ಹೆಸರು ಚನಬಸಪ್ಪ (ಹರ್ಷ) ವಯಸ್ಸು 14 ಈ ಪ್ರಕಾರ ಇದ್ದು, ನನ್ನ ಜೊತೆ ನನ್ನ ಗಂಡ ಮತ್ತು ಗಂಡನ ಮನೆಯವರು ಸುಮಾರು 3 ತಿಂಗಳಿಂದ ನನ್ನ ಜೊತೆ ವಿನಾಕಾರಣ ತಕರಾರು ಮಾಡುವುದು ಹೊಡೆಯುವುದು ಬಡೆಯುವುದು ಮಾನಸಿಕವಾಗಿ ದೈಹಿಕವಾಗಿ ಹಿಂಸೆ ನೀಡುತ್ತಿದ್ದು ಅಲ್ಲದೆ ಚೆನ್ನಾಗಿ ಕೆಲಸ ಮಾಡಲು ಬರುವುದಿಲ್ಲ ನೀನು ಮನೆ ಬಿಟ್ಟು ಹೋಗಿ ಬಿಡು ಅಂತಾ ಕಿರಿಕಿರಿ ಮಾಡುತ್ತಿದ್ದು ಈ ವಿಷಯವನ್ನು ನನ್ನ ತಂದೆ ತಾಯಿಗೆ ತಿಳಿಸಿದೆನು. ಅದಕ್ಕೆ ಅವರು ಮದುವೆಯಾಗಿ 15 ವರ್ಷ ಆಗಿದೆ ಅಲ್ಲಿ ಗಂಡನ ಮನೆಯಲ್ಲಿ ಹೊಂದಾಣಿಕೆ ಮಾಡಿಕೊಂಡು ಇರು ಅಂತಾ ಹೇಳಿದರು. ಅದಕ್ಕೆ ನಾನು ನನ್ನ ಗಂಡನ ಮನೆಯಲ್ಲಿ ಇದ್ದೆನು.

ದಿನಾಂಕ 25-08-2016 ರಂದು ರಾತ್ರಿ 9-30 ಗಂಟೆಗೆ ನಾವೆಲ್ಲರೂ ಮನೆಯಲ್ಲಿದ್ದಾಗ ನಾನು ನನ್ನ ಗಂಡನಿಗೆ ನಾಳೆ ಶ್ರಾವಣದ ಕಡಿ ಶುಕ್ರವಾರ ಇರುತ್ತದೆ ಮನೆ ಪೂಜೆ ಮಾಡಬೇಕು. ಮಾರ್ಕೆಟಿಗೆ ಹೋಗಲು ದುಡ್ಡು ಕೊಡ್ತಿ ಅಂತಾ ದುಡ್ಡು ಕೇಳಿದೆನು. ಆಗ ನನ್ನ ಗಂಡ ನನ್ನ ಅತ್ತೆ ಮತ್ತು ನನ್ನ ಮೈದುವನ ಇವರೆಲ್ಲರೂ ನನಗೆ ಯಾಕೆ ದುಡ್ಡು ಕೊಡಬೇಕು ನಾವು ಎಷ್ಟು ಹೇಳುತ್ತೇವೆ ಅಷ್ಟೇ ಕೇಳಿಕೊಂಡು ಸುಮ್ಮನಿರಬೇಕೆಂದು ಹೇಳಿದರು. ಅದಕ್ಕೆ ನಾನು ಯಾಕೆ ಈ ರೀತಿ ಹೀಯಾಳಿಸಿ ಮಾತನಾಡುತ್ತೀರಿ ಅಂತ ಅಂದಿದ್ದಕ್ಕೆ ಅವರೆಲ್ಲರೂ ಕೂಡಿಕೊಂಡು, ನನಗೆ ಎದಿರು ವಾದಿಸುತ್ತೀಯಾ ಅಂತಾ ನನಗೆ ಬಾಯಿಗೆ ಬಂದಂತೆ ನಿಮ್ಮೂರ ತುಲ್ಲಾಗ ತುನ್ನಿ, ರಂಡಿ ಮಗಳು



ಅಂತಾ ಹಲಕಟ ಬೈದಾಡಿದರು. ಅಲ್ಲದೆ ನನ್ನ ಮೈದುನ ನನ್ನ ಕೈ ಮತ್ತು ಮೈ ಕೈ ಹಿಡಿದು ಜಗ್ಗಾಡಿ ಹೊಡೆದು ಅವಮಾನ ಪಡಿಸಿದನು. ನಂತರ ಮೂರು ಜನ ಕೂಡಿ ನನಗೆ ಮನೆಯಲ್ಲಿ ಇರಬೇಡವೆಂದು ಹೊರಗಡೆ ನೂಕಿದರು. ಅಲ್ಲದೆ ನನಗೆ ಮನೆಯೋಳಿಗೆ ಬಂದರೆ ಜೀವ ಸಹಿತ ಬಿಡುವುದಿಲ್ಲಾ ಕಲಾಸ ಮಾಡುತ್ತೇವೆ ಅಂತಾ ಜೀವದ ಬೆದರಿಕೆ ಹಾಕಿದ ಈ ಬಗ್ಗೆ ನಾನು ನನ್ನ ತಂದೆ ತಾಯಿಗೆ ತಿಳಿಸಿದ್ದನು.

ಇದರಲ್ಲಿ 1) ವಿವೇಕಾನಂದ ಚನ್ನಬಸಪ್ಪ ಕೇಮಾಳಿ 2) ವಿಜಯ್ ಮಾಂತೇಶ ಚನ್ನಬಸಪ್ಪ ಕೇಮಾಳಿ 3) ಸರಳಾ ಗಂಡ ಚನ್ನಬಸಪ್ಪ ಕೇಮಾಳಿ ನಸಾಕೀನ ಬಾಗಲಕೋಟೆ ವಿದ್ಯಾಗಿರಿ: 3rd cross ಇದರಲ್ಲಿ ಒಂದನೆಯವನು ನನ್ನ ಗಂಡ ಇದ್ದು 2) ನನ್ನ ಮೈದುನ ಇದ್ದು 3) ನನ್ನ ಅತ್ತೆ ಇದ್ದು ಇವರೆಲ್ಲರೂ ಕೂಡಿಕೊಂಡು, ನನಗೆ ಮಾನಸಿಕವಾಗಿ ದೈಹಿಕವಾಗಿ ಹಿಂಸೆ ನೀಡಿದ್ದು ಅಲ್ಲದೆ ನನ್ನ ಮೈದುನ ನನಗೆ ಹೊಡೆ ಬಡೆ ಮಾಡಿ ಕೈ ಹಿಡಿದು ಜಗ್ಗಾಡಿ ಅವಮಾನ ಪಡಿಸಿದ್ದು ಅಲ್ಲದೆ ಎಲ್ಲರೂ ಕೂಡಿ ನನಗೆ ಜೀವ ಸಹಿತ ಬಿಡುವುದಿಲ್ಲಾ ಕಲಾಸ ಮಾಡುತ್ತೇವೆ ಅಂತಾ ಜೀವ ಬೆದರಿಕೆ ಹಾಕಿದ್ದು ಈ ಬಗ್ಗೆ ನಾನು ವಿಚಾರ ಮಾಡಿ ದಿನಾಂಕ 26-08-2016 ರಂದು ತಡವಾಗಿ ಫಿಫರ್ತ್ ಬರೆದು ಕೊಟ್ಟಿದ್ದು ಇರುತ್ತದೆ.

ತಮ್ಮ ವಿಶ್ವಾಸಿಗರು
ಸಹಿ
(ರೇಖಾ .ವಿ. ಕೇಮಾಳಿ)

9. The complaint initially was against all the members of the family. The Police conduct investigation and the result of such investigation is dropping of all other members of the family, from the array of accused. But



retaining the husband, as sole accused for the offences punishable under Sections 498A, 504, 506 of the IPC. The summary of the charge sheet, as obtaining in column No.17, reads as follows:

“ಬಾಗಲಕೋಟೆ ನವನಗರ ಪೊಲೀಸ್ ಠಾಣೆ ಗುನ್ನಾನಂ:79/2016
ಕಲಂ: 498(ಎ) 504, 506 ಐಪಿಸಿ ನೇದ್ದರ ದೂಷಾರೋಪಣ ಪತ್ರ
ಕಾಲಂ ನಂ:17 ಕ್ಕೆ ಪುರವಣಿ ಲಗ್ತೆ

ಸನ್ನಿಧಿ ಕೋರ್ಟ್ ಸ್ಥಳ ಸೀಮೆ ಹದ್ದಿ ಪೈಕಿ ಬಾಗಲಕೋಟೆ,
ವಿದ್ಯಾಗಿರಿ 3ನೇ ಕ್ರಾಸ್ ಪಿಯಾರ್ಥಿ ದಾರರ ಮನೆಯಲ್ಲಿ
ದಿನಾಂಕ:25/08/2016 ರಂದು ರಾತ್ರಿ 9-30 ಗಂಟೆಗೆ ಕಾಲಂ ನಂ. 12
ರಲ್ಲಿ ನಮೂದಿಸಿದ ಆರೋಪಿತನು ಪಿಯಾರ್ಥಿದಾರರ ಗಂಡನಿದ್ದು
ಪಿಯಾರ್ಥಿದಾರರು ಶ್ರಾವಣ ಕಡೆ ಶುಕ್ರವಾರ ಪೂಜೆ ಮಾಡುವ
ಕುರಿತು ಮಾರ್ಕೆಟಿಗೆ ಹೋಗಲು ಆರೋಪಿತನಿಗೆ ಹಣ ಕೇಳಿದ್ದು
ಅದಕ್ಕೆ ಸದರಿ ಆರೋಪಿತನು ಯಾಕೆ ಹಣ ಕೊಡಬೇಕು
ಹೇಳಿದಷ್ಟು ಕೇಳಿ ಇರಬೇಕು ಅಂತಾ ದೈಹಿಕವಾಗಿ ಮಾನಸಿಕವಾಗಿ
ಹಿಂಸೆಯನ್ನು ನೀಡಿದ್ದು ಅಲ್ಲದೆ ಅವಾಚ್ಯ ಶಬ್ದಗಳಿಂದ
ಪಿಯಾರ್ಥಿದಾರಳಿಗೆ ಬೈದಾಡಿ ಮನೆಯಿಂದ ಹೊರಗೆ ಹಾಕಿದ್ದು
ಅಲ್ಲದೆ ಮತ್ತೆ ಮನೆಯೊಳಗೆ ಬಂದರೆ ಜೀವ ಸಹಿತ ಬಿಡುವುದಿಲ್ಲ
ಖಲಾಸ ಮಾಡುತ್ತೇನೆ ಅಂತಾ ಜೀವದ ಬೆದರಿಕೆ ಹಾಕಿದ ಅಪರಾಧ.

ಕಲಂ 498(ಎ) 504, 506 ಐಪಿಸಿ

10. If the complaint in its entirety and the summary of the charge sheet are juxta-posed, to be read in tandem it would no where indicate any ingredients of offences punishable under Sections 498A, 504 or 506 of the IPC.



Much emphasis is laid by the learned counsel for the petitioner on the further statement recorded of the complainant. The further statement is nothing beyond the trivialities projected in the complaint or found in the charge sheet. In the light of the offences alleged being as afore-quoted, I deem it appropriate to notice Sections 498A, 504 and 506 of the IPC. At the outset Section 498A reads as follows:

498-A. 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 purposes of this section, “cruelty” means—

- (a) any willful 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.”**



Section 498A has two components. Either the husband or a relative of the husband should subject the woman to cruelty. The cruelty would mean willful conduct which is of such a nature that is likely to drive the woman to commit suicide or cause grave injury or danger to life. Harassment is defined to force her to meet any unlawful demand for any property or valuable security and harassment towards non-fulfillment of such demand. Whether those ingredients are present in the complaint or in the summary of the charge sheet is what is required to be noticed.

11. The complaint against the husband is that on 25.08.2016 at 9.30 p.m. the wife/complainant informs the husband that the next day was an auspicious day for performance of the pooja. In that connection she asks money for performance of the pooja to buy all necessities for such performance. The husband appears to have declined to part with any money for the occasion. The squabble relates to this incident. Then it is projected that the husband has abused the wife with filthy language for



having asked money for performance of pooja. This becomes the fulcrum of the complaint and the contents of summary of the charge sheet as also the further statement. In the teeth of the aforesaid facts what would unmistakably emerge, is certain skirmishes between the husband and the wife, which happen, if not daily, but quite often, is projected to become the ingredients of Section 498A of the IPC. The complaint is so vague as it would fetter vagueness itself. The investigation has led to filing of the charge sheet, without rhyme or reason, fortunately leaving out the parents, in the charge sheet. It is filed only against the husband and against the husband what is found is as afore-quoted. Therefore, the offence punishable under Section 498A is recklessly and loosely laid against the petitioner.

12. In the teeth of the aforesaid facts it would become apposite to refer to the judgment of the Apex Court in the case of ***Abhishek Kumar Singh v. State of Uttar Pradesh and another*** reported in **2023 SCC OnLine SC 1083** wherein, it is held as follows:



"11. This being the factual backdrop, we may note at the very outset that the contention that the appellants' quash petition against the FIR was liable to be dismissed, in any event, as the chargesheet in relation thereto was submitted before the Court and taken on file, needs mention only to be rejected. It is well settled that the High Court would continue to have the power to entertain and act upon a petition filed under Section 482 Cr. P.C. to quash the FIR even when a chargesheet is filed by the police during the pendency of such petition [See Joseph Salvaraj A. v. State of Gujarat ((2011) 7 SCC 59)]. This principle was reiterated in Anand Kumar Mohatta v. State (NCT of Delhi), Department of Home [(2019) 11 SCC 706]. This issue, therefore, needs no further elucidation on our part.

12. The contours of the power to quash criminal proceedings under Section 482 Cr. P.C. are well defined. In V. Ravi Kumar v. State represented by Inspector of Police, District Crime Branch, Salem, Tamil Nadu [(2019) 14 SCC 568], this Court affirmed that where an accused seeks quashing of the FIR, invoking the inherent jurisdiction of the High Court, it is wholly impermissible for the High Court to enter into the factual arena to adjudge the correctness of the allegations in the complaint. In Neeharika Infrastructure (P). Ltd. v. State of



Maharashtra [Criminal Appeal No. 330 of 2021, decided on 13.04.2021], a 3-Judge Bench of this Court elaborately considered the scope and extent of the power under Section 482 Cr. P.C. It was observed that the power of quashing should be exercised sparingly, with circumspection and in the rarest of rare cases, such standard not being confused with the norm formulated in the context of the death penalty. It was further observed that while examining the FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made therein, but if the Court thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, and more particularly, the parameters laid down by this Court in R.P. Kapur v. State of Punjab (AIR 1960 SC 866) and State of Haryana v. Bhajan Lal [(1992) Supp (1) SCC 335], the Court would have jurisdiction to quash the FIR/complaint.

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.



14. In Preeti Gupta v. State of Jharkhand [(2010) 7 SCC 667], this Court noted that the tendency to implicate the husband and all his immediate relations is also not uncommon in complaints filed under Section 498A IPC. It was observed that the Courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases, as allegations of harassment by husband's close relations, who were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different complexion and such allegations would have to be scrutinised with great care and circumspection.

15. Earlier, in Neelu Chopra v. Bharti [(2009) 10 SCC 184], this Court observed that the mere mention of statutory provisions and the language thereof, for lodging a complaint, is not the 'be all and end all' of the matter, as what is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in the commission of that offence. These observations were made in the



context of a matrimonial dispute involving Section 498A IPC.

16. Of more recent origin is the decision of this Court in Mahmood Ali v. State of U.P. (Criminal Appeal No. 2341 of 2023, decided on 08.08.2023) on the legal principles applicable apropos Section 482 Cr. P.C. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 Cr. P.C. 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.



17. In Bhajan Lal (supra), this Court had set out, by way of illustration, the broad categories of cases in which the inherent power under Section 482 Cr. P.C. could be exercised. Para 102 of the decision reads as follows:

'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 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 Act concerned (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 Act concerned, 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.'

18. Applying the aforestated edicts to the case on hand, we may take note of certain glaring inconsistencies and discrepancies. Though Bhawna had earlier alleged that her mother-in-law, Kusum Lata, and her brother-in-law, Abhishek, had taken away all her jewellery after her marriage on the pretext of safekeeping, she specifically stated in her deposition before the Family Court, Narsinghpur, in Civil Suit No. 153A of 2015, that her entire stridhan jewellery was with Nimish and in spite of repeated demands, he was not returning it to her. Further, during her cross-examination therein, she admitted that she had made a complaint to the High Court against Abhishek. The complaint was styled as an anonymous one, but Bhawna voluntarily owned up to being its author. This aspect bears out her animosity against her in-laws and more particularly, Abhishek.

19. The most significant aspect to be taken note of presently is that Bhawna admittedly parted ways with her matrimonial home and her in-laws in February, 2009, be it voluntarily or otherwise, but she did not choose to make a complaint against them in relation to dowry harassment till the year 2013. Surprisingly, FIR No. 56 dated 09.02.2013 records that the occurrence of the offence was from 02.07.2007 to



05.02.2013, but no allegations were made by Bhawna against the appellants after she left her matrimonial home in February, 2009. Significantly, Bhawna got married to Nimish on 02.07.2007 at Indore and went to Mumbai with him on 08.07.2007. Her interaction with her in-laws thereafter seems to have been only during festivals and is stated to be about 3 or 4 times. Sourabh, an architect, was stationed at Delhi since the year 2007 and no specific allegation was ever made against him by Bhawna. In fact, she merely made a general allegation to the effect that he also tortured her mentally and physically for dowry. No specific instance was cited by her in that regard or as to how he subjected her to such harassment from Delhi. Similarly, Abhishek became a judicial officer 6 or 7 months after her marriage and seems to have had no occasion to be with Bhawna and Nimish at Mumbai. His exposure to her was only when she came to visit her in-laws during festivals. Surprisingly, Bhawna alleges that at the time of his own marriage, Abhishek demanded that Bhawna and her parents should provide him with a car and Rs. 2 lakhs in cash. Why he would make such a demand for dowry, even if he was inclined to commit such an illegality, from his sister-in-law at the time of his own marriage is rather incongruous and difficult to comprehend. Further, the fact that Bhawna confessed to making a vicious complaint



against Abhishek to the High Court clearly shows that her motives were not clean insofar as her brother-in-law, Abhishek, is concerned, and she clearly wanted to wreak vengeance against her in-laws. The allegation levelled by Bhawna against her mother-in-law, Kusum Lata, with regard to how she taunted her when she wore a maxi is wholly insufficient to constitute cruelty in terms of Section 498A IPC.

20. We may also note that Bhawna herself claimed that Nimish came to her brother's wedding in 2012, but she has no details to offer with regard to any harassment for dowry being meted out to her by her mother-in-law and her brothers-in-law after 2009. As noted earlier, even for that period also, her allegations are mostly general and omnibus in nature, without any specific details as to how and when her brothers-in-law and mother-in-law, who lived in different cities altogether, subjected her to harassment for dowry.

21. Most damaging to Bhawna's case is the fact that she did nothing whatsoever after leaving her matrimonial home in February, 2009, and filed a complaint in the year 2013 alleging dowry harassment, just before her husband instituted divorce proceedings.



22. Given the totality of the facts and circumstances, we are of the considered opinion that Bhawna's allegations against the appellants, such as they are, are wholly insufficient and, prima facie, do not make out a case against them. Further, they are so farfetched and improbable that no prudent person can conclude that there are sufficient grounds to proceed against them. In effect, the case on hand falls squarely in categories (1) and (5) set out in Bhajan Lal (supra). Permitting the criminal process to go on against the appellants in such a situation would, therefore, result in clear and patent injustice. This was a fit case for the High Court to exercise its inherent power under Section 482 Cr. P.C. to quash the FIR and the consequential proceedings."

The Apex Court in the aforesaid judgment observes that vague or farfetched allegations against the husband/member of the family should bear thorough scrutiny at the hands of the Court and if it finds that it was frivolous it is to be quashed.



13. The other offences are Sections 504 and 506 of the IPC. They read as follows:

"504. Intentional insult with intent to provoke breach of the peace.—Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

506. Punishment for criminal intimidation.—Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

if threat be to cause death or grievous hurt, etc.—and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."

It has become a habit to lay Sections 504 and 506, in every offence merely because they are non-cognizable. But, nonetheless they are also offences for which trial at times can be conducted. Therefore, those offence also should bear scrutiny as to whether they are present at all,



in any given case. The facts narrated, the complaint and the summary charge sheet would at all satisfy the tenor of Sections 504 and 506 is required to be noticed.

14. Section 504 deals with intentional insult with intent to provoke breach of peace. Whoever would intentionally insult and thereby gives provocation to any person and that provocation to cause him to break the public peace, the person is said to commit an offence under Section 504. The dispute in the case at hand is between the husband and the wife. Breach of public peace cannot be imagined in the case at hand. It is, therefore, recklessly laid which would mean that it ought not to have been invoked in the facts of the case.

15. The other provision is Section 506 which deals with punishment for criminal intimidation. Criminal intimidation is defined under Section 503 of the IPC and it reads as follows:

"503. Criminal intimidation.—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any



act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threats, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.”

Whoever threatens another with any injury to his person, reputation or property is said to be criminally intimidating the other. The facts narrated hereinabove would clearly indicate that the dispute is a trivial squabble erupted between the husband and the wife. Where from ingredients of Section 503 can spring is a mystery and on such mystery Section 506 is also loosely laid against the petitioner. Therefore, the Investigating Officer could not have used Section 504 or Section 506 in the manner that it is roped in. The Investigating Officers should exercise caution even while laying down offences even under Sections 504 and 506 of the IPC. They are offences which are punishable with two years imprisonment. Therefore, it cannot be a frolicsome act, on the part of the Investigating Officer to simply bring in Sections 504 or 506 in a case



where it does not have a speck of ingredients qua the said offences.

16. Reference being made to the judgment of the Apex Court in the case of **Mohammed Wajid v. State of U.P.** – 2023 SCC OnLine SC 951 wherein the Apex Court while analysing and elucidating Sections 504 and 506 of the IPC holds as follows:

"SECTIONS 503, 504 AND 506 OF THE IPC

24. Chapter XXII of the IPC relates to Criminal Intimidation, Insult and Annoyance. Section 503 reads thus:—

"Section 503. Criminal intimidation.

—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

Illustration

A, for the purpose of inducing B to resist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation."



25. Section 504 reads thus:—

"Section 504. Intentional insult with intent to provoke breach of the peace.— *Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."*

26. Section 506 reads thus:—

"Section 506. Punishment for criminal intimidation.— *Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;*

If threat be to cause death or grievous hurt, etc.— *And if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."*

27. An offence under Section 503 has following essentials:—

- 1) Threatening a person with any injury;
 - (i) to his person, reputation or property; or
 - (ii) to the person, or reputation of any one in whom that person is interested.
- 2) The threat must be with intent;
 - (i) to cause alarm to that person; or



- (ii) to cause that person to do any act which he is not legally bound to do as the means of avoiding the execution of such threat; or
- (iii) to cause that person to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat.

28. Section 504 of the IPC contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause a breach of the public peace or to commit any other offence. Mere abuse may not come within the purview of the section. But, the words of abuse in a particular case might amount to an intentional insult provoking the person insulted to commit a breach of the public peace or to commit any other offence. If abusive language is used intentionally and is of such a nature as would in the ordinary course of events lead the person insulted to break the peace or to commit an offence under the law, the case is not taken away from the purview of the Section merely because the insulted person did not actually break the peace or commit any offence having exercised selfcontrol or having been subjected to abject terror by the offender. In judging whether particular abusive language is attracted by Section 504, IPC, the court has to find out what, in the ordinary circumstances, would be the effect of the abusive language used and not what the complainant actually did as a result of his peculiar idiosyncrasy or cool temperament or sense of discipline. It is the ordinary general nature of the abusive language that is the test for considering whether the abusive language is an intentional insult likely to provoke the person insulted to commit a breach of the peace and not the particular conduct or temperament of the complainant.



29. Mere abuse, discourtesy, rudeness or insolence, may not amount to an intentional insult within the meaning of Section 504, IPC if it does not have the necessary element of being likely to incite the person insulted to commit a breach of the peace of an offence and the other element of the accused intending to provoke the person insulted to commit a breach of the peace or knowing that the person insulted is likely to commit a breach of the peace. Each case of abusive language shall have to be decided in the light of the facts and circumstances of that case and there cannot be a general proposition that no one commits an offence under Section 504, IPC if he merely uses abusive language against the complainant. In *King Emperor v. Chunnibhai Dayabhai*, (1902) 4 Bom LR 78, a Division Bench of the Bombay High Court pointed out that:—

"To constitute an offence under Section 504, I.P.C. it is sufficient if the insult is of a kind calculated to cause the other party to lose his temper and say or do something violent. Public peace can be broken by angry words as well as deeds."

(Emphasis supplied)

30. A bare perusal of Section 506 of the IPC makes it clear that a part of it relates to criminal intimidation. Before an offence of criminal intimidation is made out, it must be established that the accused had an intention to cause alarm to the complainant.

31. In the facts and circumstances of the case and more particularly, considering the nature of the allegations levelled in the FIR, a *prima facie* case to constitute the offence punishable under Section 506 of the IPC may probably could be said to have been disclosed but not under Section 504 of the IPC. The allegations with respect to the offence punishable under Section 504 of the IPC can



also be looked at from a different perspective. In the FIR, all that the first informant has stated is that abusive language was used by the accused persons. What exactly was uttered in the form of abuses is not stated in the FIR. One of the essential elements, as discussed above, constituting an offence under Section 504 of the IPC is that there should have been an act or conduct amounting to intentional insult. Where that act is the use of the abusive words, it is necessary to know what those words were in order to decide whether the use of those words amounted to intentional insult. In the absence of these words, it is not possible to decide whether the ingredient of intentional insult is present."

If the facts narrated hereinabove are considered on the bedrock of the principles laid down by the Apex Court in the cases of ***Abhishek*** and ***Mohammad Wajid*** (supra) what would unmistakably emerge is that criminal proceedings are sought to be conducted on glorified trivialities between the husband and the wife. If criminal proceedings on such trivialities are permitted to continue, it would be putting a premium on such allegations made in every case. It has become a norm in these days for the complainants to drag all the members of the family and in some cases even the husband projecting trivial grievances.



They are oblivious to the fact that these are criminal proceedings, mere pendency of which would have dire consequences on the members of the family, or any accused.

Therefore, I am of the considered view that permitting criminal process to go on against the petitioner in C.C. No.2127 of 2018 will be an abuse of the process of law ultimately result clear and patent injustice.

For the aforesaid reasons, the following:

ORDER

- (i) Criminal Petition is allowed.
- (ii) The proceedings against the petitioner – accused in C.C. No.2127/2018 on the file of the Principal Civil Judge and JMFC, Hubballi shall stand quashed.

Sd/-
JUDGE