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M.Cr.C. Nos. 35596/2018
& 16764/2019

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

MISC. CRIMINAL CASE No. 35596 of 2018

BETWEEN:-

RAJAN S/O SARAN PRASAD MATHUR,

SMT. NANDITA

2. NUMBAER 1, SHYAM KUNJ,

.....PETITIONERS.

(SHRI AMAR SINGH RATHORE, LEARNED COUNSEL FOR THE PETITIONERS.)

AND

1. THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER

**SMT. PALLAVI,
HOUSEWIFE**

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.....RESPONDENTS

(SHRI SUDARSHAN JOSHI, LEARNED GOVT. ADVOCATE FOR THE RESPONDENT/STATE.)

(SHRI JERRY LOPEZ, LEARNED COUNSEL FOR RESPONDENT NO.2.)

MISC. CRIMINAL CASE No. 16764 of 2019

BETWEEN:-

SMT. MEERA W/O RAJAN MATHUR, AGED ABOUT 55 YEARS,

.....PETITIONER.

(SHRI AMAR SINGH RATHORE, LEARNED COUNSEL FOR THE PETITIONER.)

AND

- 1. THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER**
- 2. SMT. PALLAVI W/O KARTIK MATHUR,**

.....RESPONDENTS

(SHRI SUDARSHAN JOSHI, LEARNED GOVT. ADVOCATE FOR THE RESPONDENT/STATE.)

(SHRI JERRY LOPEZ, LEARNED COUNSEL FOR RESPONDENT NO.2.)

Reserved on : 03.08.2023.

Pronounced on : 17.08.2023

ORDER

1. The applicants have filed these petitions u/s. 482 of the Cr.P.C. seeking quashment of FIR No.139/2018 registered on a complaint made by respondent No.2 alleging commission of offence u/s. 498-A, 323 and 34 of the IPC at Police Station Mahila Thana, Indore. The petitioner in M.Cr.C. No.16764/2019 has also sought quashment of the proceedings in Cr. Case No. 878/2019.

The introduction of the parties

2. Applicant No.1 is the father of Kartik Mathur R/o and Applicant No. 2 is the wife of Daksh Mathur (the elder son of Applicant No.1) . Smt. Meera Mathur is the wife of applicant No. 1. The applicants are residents of

Respondent No. 2 / the complainant is a daughter of **SHRI SARVESH MATHUR R/O B**

Respondent No.2 and Kartik Mathur (younger son of Applicant No.1) were married following Hindu rites and rituals in Indore on 22.6.2017.

The prosecution story

2. Respondent No.2, lodged an FIR on 29.7.2018 at Police Station Mahila Thana Indore disclosing that at the time of marriage, her parents spent Rs. 50 to 60 Lakhs and they also gave gold and silver ornaments to the applicants. Her husband Kartik Mathur and his parents demanded Rs.1,00,000/- for the arrangement of an AC bus, at the time of marriage which her father had given. She went to her matrimonial house in Gurgaon. Thereafter she went with her husband to Shimla for a honeymoon. Parents of Kartik Mathur i.e. Rajan Mathur and Smt. Meera Mathur and Smt. Nandita Mathur W/o. Daksh Mathur also reached Shimla to spoil the honeymoon. the complainant further alleges that they all ill-treated by way of taunting her for the demand of Rs.10 Lakhs and a car. Thereafter, they all came back to Gurgaon. On 30.6.2017, Kartik Mathur left for Australia disclosing that he is unhappy with her as her parents did not fulfil the demand. She

remained with her in-laws in the matrimonial house for a few days. She was beaten and thrown out of the house on 30.7.2017. Thereafter, she came to Indore and lodged the FIR on 29.7.2018 i.e. after one year. The contents of the FIR are as under :

“मैं उनि. संगीता बारिया महिला थाना इंदौर पर पदस्थ हूं आज दिनांक को फरियादिया पल्लवी पति कार्तिक माथुर उम्र 30 साल नि. जी 39 साऊथ सिटी पार्ट 2, गुडगांव हाल निवासी 35 नानक पैलेस कॉलोनी पिपल्याराऊ इंदौर द्वारा एक लेखी आवेदन प्रस्तुत किया जिस पर से अपराध धारा 498ए, 323, 34 भादवि का पाया जाने से अपराध पंजीबद्ध कर विवेचना में लिया जाता है नकल आवेदन निम्नानुसार है प्रति, श्रीमान थाना प्रभारी महोदय महिला थाना इंदौर विषय पति, सास, ससुर, जेठानी द्वारा दहेज में 10 लाख रुपये व कार की मांग कर प्रताड़ित करने बावत्। महोदय, निवेदन है कि मैं प्रार्थी पल्लवी पति कार्तिक माथुर उम्र 30 साल नि. जी 39 साऊथ सिटी पार्ट 2, गुडगांव हाल निवासी 35 नानक पैलेस कॉलोनी पिपल्याराऊ इंदौर की रहने वाली हूं मेरी शादी दिनांक 22.06.17 को कार्तिक पिता राजन माथुर नि. जी 39 साऊथ सिटी पार्ट 2 गुडगांव के साथ दोनों परिवारों की राजीमर्जी से सयाजी होटल इंदौर में हुई थी शादी में मेरे माता पिता ने करीब 50-60 लाख रुपये खर्च किये थे व सोने चांदी के रकम दी थी व विदाई के समय ससुराल जाने के लिये मेरे पति, सास, ससुर, जेठानी ने एक लाख रुपये ए.सी. बस के लिये मांग की व कहा कि 10 लाख रुपये व कार भी हमें दहेज में चाहिये, तो फिर मेरे माता पिता ने 01 लाख रुपये तुरंत बस में जाने के लिये दिये उसके बाद में ससुराल गुडगांव चली गयी वहा से तीन दिन बाद ही मेरे पति और मैं हनीमून के लिये शिमला गये तो वहां पर मेरे सास, ससुर, जेठानी भी आ गये वहां पर भी मेरे पति, सास, ससुर, जेठानी ने मेरे साथ अच्छा व्यवहार नहीं किया और फिर हम सभी गुडगांव आ गये फिर दिनांक 30.06.17 को मेरे पति आस्ट्रेलिया चले गये और जाते समय बोले कि मैं तुमसे नाराज हूं तुम्हारे माता पिता ने दहेज में 10 लाख रुपये व कार नहीं दी है फिर उसके बाद मैं ससुराल में ही रही इस दौरान मेरे साथ मेरे सास, ससुर, जेठानी ने दहेज की बात को लेकर तानाकसी करते और कहते कि तेरे मायके से दहेज में 10 लाख रुपये व कार लेकर आया इसी बात को लेकर सभी ने मेरे साथ मारपीट कर दिनांक 30.07.17 को घर से भगा दिया तब मैं अपने माता पिता के घर इंदौर आ गयी मेरे माता पिता ने भी मेरे ससुराल वालों को समझाने का प्रयास किया परंतु वे नहीं माने और कहने लगे कि 10 लाख रुपये व कार की व्यवस्था हो गयी हो तो हम तुझे ले जाते हैं वरना नहीं ले जायेंगे और अपनी मांग पर अड़े हैं इस प्रकार मेरे पति, सास, ससुर, जेठानी ने शादी के दिन से ही दहेज की मांग कर मुझे शारीरिक व मानसिक रूप से प्रताड़ित किया है मैं इनके विरुद्ध कानूनी कार्यवाही चाहती हूं। प्रार्थीया (हस्ताक्षर अंग्रेजी में अस्पष्ट हैं) पल्लवी पति कार्तिक माथुर नि. 35 नानक पैलेस कॉलोनी पिपल्याराऊ इंदौर मोबा. नंबर 7715836578”

3. The aforesaid FIR was registered against her husband - Kartik, father-in-law – Rajan Mathur (applicant No.1), mother-in-law – Smt. Meera Mathur (applicant) and wife of Kartik's brother ('Jethani') – Nandita Mathur (applicant No.2) u/s. 498-A, 323 and 34 of the IPC.

The police sent notice u/s. 41A of the Cr.P.C. to the applicants for their appearance in the Police Station for investigation. Rajan Mathur sent a detailed e-mail questioning the registration of FIR at Indore when no offence was said to have been committed at Indore.

4. By way of these M.Cr.Cs. the applicants are seeking quashment of the FIR and the proceedings of the criminal case *inter alia* on the ground that none of the parties have ever resided at Indore. Indore was only a venue for the marriage. The applicants are permanent residents of Gurgaon and the parents of respondent No.2 are residents of Navi Mumbai (Maharashtra). Merely the venue of the marriage was Indore, hence the selection of a Police Station at Indore for registration of the FIR u/s. 498A, 323 and 34 of the IPC where no offence said to have been committed is nothing but the intention to harass the applicants. It is further submitted that Respondent No.2 left the matrimonial house as per her own will and since then she is residing in Navi Mumbai now in Australia. There is a delay of the period of one year in lodging the FIR. Family settlement proceedings were initiated by Kartik Mathur in the Family Court in Victoria, Australia. It is further submitted that applicant No.1 Rajan Mathur is a retired Air Force Officer and Smt. Nandita is his daughter-in-law, and wife of Daksh Mathur who is Lt. Col. an Army Officer. Applicant No.2 usually resides with her husband and was temporarily residing with her in-laws as her husband is posted in the forward areas of Jammu and Kashmir. She has unnecessarily been dragged into these proceedings. The allegation of demand of dowry of Rs.10 Lakhs and a car is totally false and baseless. The applicants have specifically alleged that on 24.6.2017 i.e. 2nd day of

marriage, respondent No.2 turned away and disclosed that she was having a relationship with a boy before marriage. It is further submitted that after the marriage, respondent No.2 sent a mail to her husband Kartik in which there was no such allegation of demand of dowry. Therefore, on this ground alone, the FIR, which is nothing but sheer abuse of the process of law, is liable to be quashed.

5. After notice, respondent No.2 has filed a detailed reply opposing the prayer for quashment of the FIR. She has reiterated the allegations made in the FIR. It is submitted that the entire allegations in the FIR are a matter of evidence, therefore, at this stage, same cannot be quashed by conducting a mini trial. It is further submitted that she is a permanent resident of 35, Nanak Palace Colony, Pipliyarao, Indore. It is also submitted that her husband Kartik has obtained an ex-parte decree of divorce from the Court in Australia. As the marriage was solemnized in India under the Hindu Marriage Act, therefore, the decree of divorce is illegal and not binding on her. She has quoted various judgments of the High Courts and Apex Court in respect of the scope of Section 482 of the Cr.P.C.

6. The applicant /Smt. Meera Mathur, mother-in-law of respondent No.2 has also filed M.Cr.C. No.16764/2019 seeking quashment of the FIR. In this petition, respondent No.2 has filed the reply through Power of Attorney holder Sarvesh Mathur (father), whose residential address is at B 503, Crystal Court, CHS, Sector 7, Kharghar, Navi Mumbai. After execution of the Power of Attorney dated 21.12.2018, respondent No.2 travelled to Australia on 28.12.2018. At present, she is residing in Australia and contesting the case before the Session Court Indore as

well as this High Court.

7. So far as the allegations in the FIR are concerned, according to respondent No.2, the parents of Kartik demanded Rs.10 Lakhs and a car during her stay in the matrimonial house. Her Father-in-law, mother-in-law and sister-in-law ('Jethani') used to taunt her for the demand of Rs.10 Lakhs and a car. She was thrown out of the house on 30.7.2017 after beating her. Thereafter she came to Indore at her parents' house. Her parents tried to resolve the dispute but the parents of Kartik were adamant about the demand of Rs.10 Lakhs and a car. According to her, she was subjected to physical as well as mental cruelty. Accept oral evidence there is nothing on record to corroborate her statement to establish the charge of 498-A of the I.P.C. .

8. There is a delay of one year in lodging the FIR for which there is no explanation. So far the jurisdiction is concerned only the marriage was solemnized at Indore. Respondent No.2 only gave an address but there is no material to support that she or her father is an ordinary resident of Indore. Even if it is believed that they have some connection in Indore but as per the allegation in the FIR none of the offences are said to have been committed in Indore. Applicants are permanent residents of Gurgaon and the parents of the complainant are permanent residents of Navi Mumbai (Maharashtra). As per the contents of the FIR, the entire allegation about the demand of dowry and commission of atrocities in the matrimonial house at Gurgaon. Nothing happened after leaving the matrimonial house on 30.7.2017 in Indore. Therefore, the FIR at Police Station Mahila Thana at Indore has wrongly been registered.

9. So far as the commission of the offence under Section 323 of the IPC is concerned, there is only an oral allegation about the assault. There is no MLC on record. The delay of one year in lodging the FIR has not been explained. The allegation of demand of dowry of Rs.10 Lakhs and a car against father-in-law, mother-in-law and 'Jethani' are general in nature.

10. Nowadays the very purpose of the insertion of Section 498-A in the Penal Code, 1860 with the object to punish the husband or his relatives, has been defined. In most of the cases, this section is being misused as observed by several High Courts and the Hon'ble Supreme Court. The Hon'ble Supreme Court in ***Arnesh Kumar v. State of Bihar : [(2014) 8 SCC 273]*** has observed that the relatives are unnecessarily being made accused under section 498-A of the I.P.C..

11. The cases are lodged under Section 498-A of the Penal Code, 1860 only to settle the matrimonial dispute. some times the FIR wife lodges the FIR immediately after receipt of the summons from the Family courts. Nowadays there is a package of 5 cases against the husband and family members in family court and the criminal court under I.P.C., the Hindu Marriage Act and the Protection of Women from Domestic Violence Act, 2005. The Hon'ble Supreme Court in ***Preeti Gupta v. State of Jharkhand : [(2010) 7 SCC 667]***. Paragraphs 32, 33, 34, 35 and 36 of the said judgment are quoted herein below:

“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.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. 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. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinised with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the

relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of an amicable settlement altogether. The process of suffering is extremely long and painful.”

12. The Courts have experienced that on the general and omnibus allegations the family members and distant relatives are being roped in a case arising out of Section 498-A of the Penal Code, 1860, which was considered by the Hon'ble Supreme Court in ***Geeta Mehrotra v. State of UP : [(2012) 10 SCC 741]***. The cases related to distant relatives were further considered and deprecated by the Hon'ble Supreme Court in ***K. Subba Rao v. The State of Telangana : [(2018) 14 SCC 452]***.

13. Taking guidance from the above-mentioned cases where there is apparent misuse of Section 498-A of the Penal Code, 1860 the High Court should exercise the power conferred under section 482 of the Cr.P.C. to protect the relatives of the husband in matrimonial dispute in order to do the complete justice and prevent misuse of the process of law. .

14. Shri Jerry Lopez, learned counsel appearing for respondent No.2 has argued that the FIR may not contain all the details but in statement u/s. 161 of Cr.P.C. or evidence in the Court would contain the details about the demand of dowry or atrocities committed to her. It is further submitted that the e-mail exchange and the chat conversations in respect of the demand of dowry also constitute mental cruelty. The scope of interference by the High Court at this stage is impermissible. In support of his contention, has submitted the list and photocopies of the judgments passed by the various High Courts and the Apex Court

in the case of **2013 (2) Kar.L.J. 194 : Nanjaiah V/s. State of Karnataka; AIR 1997 SC 768 : Rattan Singh V/s. State of H.P.; 2017 Cr.L.J. (NOC 746) 233 : Sujoy Lahiri V/s. Smt. Nandini Lahiri**; order dated 15.3.2016 passed in **M.Cr.C. No.1825/2011** by this Court, Gwalior Bench (**Bhagwan Singh V/s. State of M.P.**); **2017 SCC Online Pat. 2771: Sureshwar Narayan V/s. State of Bihar**; order dated 4.9.2013 passed in **W.P. (Crl.) No.588/2011** by Delhi High Court; **2013 SCC Online 13771 : Subrata Kumar V/s. State of W.B.; AIR 2016 SC 1871 : Amanullah V/s. State of Bihar; (1996) 8 SCC 164: State of Bihar V/s. Rajendra Agrawalla; 1995 Cr.L.J. 2935 : Ganesh Narayan Hegde V/s. S. Banagarappa**; and **1997 Cr.L.J. 3221: Darshan Singh V/s. State of Punjab**.

15. In M.Cr.C. No. 35596/2018, the applicants have filed an application (I.A. No.14725/2022) seeking direction to respondent No.1 to procure the e-mail verification report. During pendency of these petitions, a charge-sheet has been filed on 5.3.2019. On 23.9.2021, learned Govt. The Government Advocate appearing for respondent No. 1 informed this Court that the details of e-mails have been verified, but the e-mails exchanged between the parties could not be procured as the same is restricted by Gugal. The DIG, Indore vide letter dated 18.1.2019 directed for investigation but the said report has not been produced. Therefore, the applicants filed an application for the production of the investigation report and e-mail verification report.

16. This Court vide order dated 21.10.2021 directed the parties to settle the dispute by way of mediation for which Smt. Rashmi Pandit was appointed as a Mediator. The Mediator submitted the report on

19.1.2022 and according to which the parties were not ready to compromise the matter.

17. At present, the husband and wife both have settled in Australia. The parents of the husband are being harassed by way of the criminal case in India. Applicant No.1 Rajan Mathur is aged about 67 years and his wife is also a senior citizen. General allegations have been levelled against 'Jethani' hence she has unnecessarily been dragged in the FIR. As per the contents of the FIR, the husband of respondent No.2 was not even in India at the time of so-called omission of crime. Respondent No.2 has given the Power of Attorney to her father to contest the case against these applicants. This is now a case of reverse cruelty upon them. There is no specific allegation that when her husband left India for Australia there was any demand for dowry, etc. Now a day it is very common for the husband and wife to reside or do jobs outside of India and their parents are made to suffer in India by way of criminal or matrimonial litigation.

18. In view of the foregoing discussion, these M.Cr.Cs. deserve to be and hereby allowed. The impugned FIR is hereby quashed and consequently, the charge sheet as well as the proceedings in the criminal case are also hereby quashed. Let a photocopy of this order be retained in the file of connected M.Cr.C.

(VIVEK RUSIA)
JUDGE

Alok/-

Digitally signed by ALOK GARGAV
Date: 2023.08.17 18:38:14 +05'30'