IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JUNE, 2023

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPPASANNA

CRIMINAL PETITION No.7067 OF 2021

BETWEEN:

... PETITIONERS

(BY SRI. M.R.C.MANOHAR, ADVOCATE)

AND:

1 . THE STATE OF KARNATAKA
BY J.P.NAGAR POLICE
BENGALURU
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU – 560 001.

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... RESPONDENTS

(BY SMT.K.P.YASHODHA, HCGP FOR R-1;
SRI. K.S.KARTHIK KIRAN, ADVOCATE FOR R-2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.15166/2020 (CR.NO.15/2020) REGISTERED BY J.P.NAGAR POLICE BENGALURU FOR THE OFFENCE P/U/S.498-A R/W SEC.34 OF IPC AND SEC.4 OF DOWRY PROHIBITION ACT AND THE CASE IS PRESENTLY PENDING ON THE FILE HONBLE XXX ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 13.06.2023, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The petitioners/accused Nos.1 to 3 are before this Court calling in question proceedings in C.C.No.15166 of 2020, pending before the XXX Additional Chief Metropolitan Magistrate, Bengaluru, arising out of Crime No.15 of 2020, registered for offences punishable under Sections 498A r/w. 34 of the IPC and Section 4 of the Dowry Prohibition Act, 1961.

2. Heard Sri M.R.C. Manohar, learned counsel appearing for the petitioner, Smt. K.P. Yashodha, learned High Court Government Pleader for respondent No.1 and Sri K.S. Karthik Kiran, learned counsel appearing for respondent No.2.

3. The facts in brief, as projected by the prosecution, are as follows:

The 1st petitioner is accused No.1 and 2nd and 3rd petitioners are accused Nos.2 and 3. The 2nd respondent is the complainant. The 1st petitioner is the husband of the complainant. The 1st petitioner and the complainant get married on 18.12.2019. The marriage between the 1st petitioner and the complainant turned

sore immediately after marriage. The complainant stayed with the husband in the matrimonial house only for 28 days. Venting out various grievances, the complainant walks out and seeks to register two proceedings – one setting the criminal law in motion by registering a complaint before the jurisdictional Police on 05-02-2020, which becomes a crime in Crime No.15 of 2020 for offences punishable under Section 498A of the IPC and another proceeding in M.C.No.586 of 2020 filed under Section 12(1)(a) of the Hindu Marriage Act, 1955, seeking annulment of marriage on the ground of cruelty. The police after investigation filed a charge sheet in the matter against the petitioners and filing of charge sheet leads the petitioners to this Court in the subject petition.

4. The petition having been entertained, an interim order is granted by this Court in terms of its order dated 14-09-2021 and the interim order is subsisting even as on date.

5. The learned counsel appearing for the petitioners would contend with vehemence that 1st petitioner and the complainant get married on 18-12-2019, moved to Bengaluru and they reside at Bengaluru. The parents/petitioner Nos.2 and 3 continued to reside

at Coorg/Ponnampet. The complainant/wife stayed at the matrimonial house only for 28 days and on the ground that the marriage had not consummated, initiated proceedings in M.C.No.586 of 2020 and at the same breath, registered a crime for offence under Section 498A of the IPC. The parents who were nothing to do with the issue have been dragged into the web of crime without any rhyme or reason. Even the 1st petitioner/husband is concerned, it is his submission that the allegations would not meet any of the ingredients of the offence punishable under Section 498A. He would seek quashment of the entire proceedings.

6. On the other hand, the learned counsel representing the 2nd respondent/complainant would seek to contend that the parents have deliberately got their son married to the complainant. The son/husband never showed any interest to develop physical relationship with the wife and, therefore, the wife was constrained to seek annulment of marriage on the ground that it amounts to cruelty. Though the marriage has been annulled in terms of the order dated 16-11-2022, in M.C.No.586 of 2020, the complainant

would pursue the present proceedings as it amounts to cruelty for demand of dowry. He would seek dismissal of the petition.

7. The learned High Court Government Pleader would toe the lines of the learned counsel representing the 2nd respondent.

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

9. The afore-narrated facts are not in dispute. They lie in a narrow compass as the relationship between the 1st petitioner and the complainant is an admitted fact and it is also admitted that they stayed together only for 28 days. It is the happenings in those 28 days that is what is projected by the complainant. The 1st petitioner and the complainant get married on 18-12-2019 and barely two months thereafter, on 05-02-2020 the complainant registers a complaint. Since the issue has triggered from the complaint, I deem it appropriate to notice the complaint to consider whether it would make the ingredients of offences so alleged.

10. The complaint in the first six paragraphs deals with the happenings during the marriage and prior to the marriage. The complainant narrates that she was always in apprehension with regard to the attitude of her husband towards her. Even then, knowing full well about the attitude, she gets married to him and after the marriage grievances glorified. The glorification is on all trivial issues that is the complainant is alleged to have not cooked proper food and the mother-in-law had demanded a refrigerator, TV, Sofa set and so on and so forth. The real grievance of the complainant lies in paragraphs 13 to 16 of the complaint and they read as follows:

> *"13. I used to ask my husband often if he has done this marriage under any kind of pressure or force, he always said that he was under no pressure and the wedding is as per his own accords. But he was never interested in physical relations with me. He was always detached. He always used to watch videos of Brahmakumari sister Shivani and used to tell me also to watch the same. He said he is not interested in physical relationship and told that "Love is not just getting physical, we should have a soul to soul love." Day and night he played the videos of Sister Shivani's preaching and forced me to watch them too. Even if I was sitting in the next room, he used to play her videos loudly so that I can hear the same. Even while having dinner he used to play the same.*
>
> *14. I was with my husband for 28 days but our marriage has not been consummated. I used to think that my Husband has not consummated the marriage because his mother is controlling him and has asked him not to have any physical*

relationship with me until I fulfil their demand of new refrigerator, TV and sofa.

15. On 14th of January in the evening I called my mom and told her that I had pain in my stomach because of my periods, she told me to come home. I was very scared to tell my mom or family about the way my Husband treated me as my family would be devastated if they came to know that my Husband is this kind of person. My parents agreed for this marriage only because we believed that my Husband is a nice person.

16. After going home I could not control and I started crying. Since I could not enter pooja room I just sat outside and cried uncontrollably when my mother asked me about this, I had to tell her the truth. I told my mother how my husband had treated me, but I did not get courage to tell her that our marriage has not yet consummated. On the other hand my mother thought that my Husband is angry with me because he wanted me to conceive and I got my periods. She tried to console me saying that my Husband is angry only because I got my periods but I could not gather the courage to tell her the truth."

Paragraph 13 depicts that the husband was a follower of the sisters of Brahmakumari Samaja. Whenever the wife approached the husband he was always watching Brahmakumari sister Shivani videos and was always telling the wife that he is not interested in physical relationship and told that love is not getting physical relationship and should have soul to soul love. It is alleged that, day and night he was playing sister Shivani's preachings and forced the wife to watch them too. Therefore, the allegation is being a

follower of Brahmakumari Samaja, he could not have married her at the outset. It amounts to cruelty. No other allegation with regard to demand of dowry is made against the husband. Insofar as the in-laws, it is admitted that they never stayed with the couple. The couple themselves stayed together for only 28 days. The Police after investigation filed a charge sheet even in the case at hand. Summary of the charge sheet as obtaining in column 17 reads as follows:

> *"17. Brief facts of the case*
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> *ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿಯ ಕ್ರಮ ಸಂಖ್ಯೆ:14 ರಲ್ಲಿ ನಮೂದಿಸಿರುವ ಸಾಕ್ಷಿ–1 ರವರನ್ನು ಸಾಕ್ಷಿ–4 ಮತ್ತು ಸಾಕ್ಷಿ–5 ರವರು ದಿನಾಂಕ:19/12/2019 ರಂದು ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿಯ ಕ್ರಮ ಸಂಖ್ಯೆ:12ರಲ್ಲಿ ನಮೂದಿಸಿರುವ 2ನೇ ಮತ್ತು 3ನೇ ಆರೋಪಿತರ ಮಗನಾದ ಎ1 ಆರೋಪಿಯೊಂದಿಗೆ ಕೊಡಗು ಜಿಲ್ಲೆಯ ಪೊನ್ನಪೇಟೆಯ ಕೊಡವ ಸಮಾಜ ಕಲ್ಯಾಣ ಮಂಟಪದಲ್ಲಿ ಕೊಡವ ಸಮಾಜದ ಸಂಪ್ರದಾಯದಂತೆ ಲಕ್ಷಾಂತರ ರೂ ಖರ್ಚು ಮಾಡಿ ಅದ್ಧೂರಿಯಾಗಿ ಮದುವೆ ಮಾಡಿಕೊಟ್ಟಿದ್ದು, ಮದುವೆ ಪೂರ್ವದಲ್ಲಿ ನಡೆದ ಮಾತುಕತೆಯಲ್ಲಿ ಸಾಕ್ಷಿ–1 ರವರ ಕುಟುಂಬದವರು ಮತ್ತು 1ನೇ ಆರೋಪಿಯ ಕುಟುಂಬದವರು ಮದುವೆ ವೆಚ್ಚದಲ್ಲಿ ಸಮನಾಗಿ ಭರಿಸುವಂತೆ ಮಾತುಕತೆಯಾಗಿದ್ದು, ಆದರೆ 2 ಮತ್ತು 3ನೇ ಆರೋಪಿತರು ವೆಚ್ಚಕ್ಕಿಂದ 2–3 ಪಟ್ಟು ಬಿಲ್ಲುಗಳನ್ನು ತೋರಿಸಿ ಹಣವನ್ನು ಪಡೆದುಕೊಂಡಿರುತ್ತಾರೆ. ಸಾಕ್ಷಿ–1 ರವರು ಬೆಂಗಳೂರು ನಗರ ಗಾರೆಬಾವಿ ಪಾಳ್ಯದ ಎಟಿಪಿಎಲ್ ಕಂಪನಿಯಲ್ಲಿ ಟೆಕ್ನಿಕಲ್ ಸಪೋರ್ಟ್ ಹುದ್ದೆಯಲ್ಲಿ ಕೆಲಸ ಮಾಡುತ್ತಿದು, 1ನೇ ಆರೋಪಿ ಸಹ ಬೆಂಗಳೂರು ನಗರದ ಹೆಬ್ಬಾಳದ ಮಾನ್ಯತ ಟೆಕ್‌ಪಾರ್ಕ್‌ನಲ್ಲಿನ ಕಾಗ್ನಿಜೆಂಟ್ ಕಂಪನಿಯಲ್ಲಿ ಸಾಫ್ಟ್‌ವೇರ್ ಡೆವಲಪ್ಪಿಂಗ್ ಟೀಮ್‌ಲೀಡರ್ ಆಗಿ ಕೆಲಸ ಮಾಡುತ್ತಿದು. ಮದುವೆ ನಂತರ ಸಾಕ್ಷಿ–1 ಮತ್ತು 1ನೇ ಆರೋಪಿ ರವರು ಜೆ.ಪಿ.ನಗರ ಪೊಲೀಸ್ ಠಾಣಾ ಸರಹದ್ದಿನ ಜೆ.ಪಿ.ನಗರ 1ನೇ ಹಂತ, ಗುರುಮೂರ್ತಪ್ಪ ಗಾರ್ಡನ್, 6ನೇ ಅಡ್ಡರಸ್ತೆ, ನಂ.20/1, ಎಲಿಗೆಂಟ್ ಪ್ರಭಾ ಅಪಾರ್ಟ್‌ಮೆಂಟ್ ನ ಜಿ.ಎಫ್.–001 ರ ಫ್ಲಾಟ್‌ನಲ್ಲಿ ವಾಸವಾಗಿದ್ದು, 3ನೇ ಆರೋಪಿಯು ಸಾಕ್ಷಿ–1 ಮತ್ತು 1ನೇ ಆರೋಪಿಯನ್ನು ಬೆಂಗಳೂರಿಗೆ ಬಿಟ್ಟು ಹೋಗಲು ಬಂದಿದ್ದಾಗ ಸಾಕ್ಷಿ–1 ರವರಿಗೆ ತವರು ಮನೆಯಿಂದ ವರದಕ್ಷಿಣೆಯಾಗಿ ಸೋಪಾಸೆಟ್, ಟಿ.ವಿ ಮತ್ತು 65 ಸಾವಿರ ರೂ ಬೆಲೆಯ ಫ್ರಿಜ್ಜ್ ಅನ್ನು ತರುವಂತೆ ಒತ್ತಾಯ ಮಾಡಿದ್ದು, ತದನಂತರ ಸಾಕ್ಷಿ–1 ರವರು ವರದಕ್ಷಿಣೆಯಾಗಿ ಸೋಪಾಸೆಟ್, ಟಿ.ವಿ ಮತ್ತು 65 ಸಾವಿರ ರೂ ಬೆಲೆಯ ಫ್ರಿಜ್ಜ್ ಅನ್ನು ತವರು ಮನೆಯಿಂದ ತಂದಿರುವುದಿಲ್ಲ ಎಂದು ತಿಳಿದು 2 ಮತ್ತು 3ನೇ ಆರೋಪಿತರು 1ನೇ ಆರೋಪಿಗೆ ಚಾಡಿ ಮಾತುಗಳನ್ನು ಹೇಳಿಕೊಟ್ಟು ಮಾನಸಿಕವಾಗಿ ಚಿತ್ರಹಿಂಸೆ ನೀಡುತ್ತಿದ್ದು, 1ನೇ ಆರೋಪಿಯು ಸಾಕ್ಷಿ–1 ರವರೊಂದಿಗೆ ಕೌಟುಂಬಿಕ ಜೀವನ ನಡೆಸಿದ ಅವಧಿಯಲ್ಲಿ ದೈಹಿಕ ಸಂಪರ್ಕ ಹೊಂದದೆ ಬ್ರಹ್ಮಕುಮಾರಿ ಸಮಾಜದ ಸನ್ಯಾಸಿನಿಯರ ಭೋದನೆಗಳ ವಿಡಿಯೋಗಳನ್ನು ನೋಡುತ್ತಾ ಸಾಕ್ಷಿ–1 ರವರಿಗೂ ವಿಕ್ಷಣೆ ಮಾಡುವಂತೆ ಬಲವಂತ ಪಡಿಸಿ ಮಾನಸಿಕವಾಗಿ ಕಿರುಕುಳ ನೀಡಿದ್ದು, ಸಾಕ್ಷಿ–1 ರವರು ಅನಾರೋಗ್ಯದಿಂದ ಬಳಲುತ್ತಿದ್ದರು*

ಸಹ 1ನೇ ಆರೋಪಿ ಆರೈಕೆ ಮಾಡದೆ 2 ಮತ್ತು 3ನೇ ಆರೋಪಿತರ ಚಾಡಿ ಮಾತುಗಳನ್ನು ಕೇಳಿಕೊಂಡು ನಿರ್ಲಕ್ಷ್ಯ ಮಾಡಿರುತ್ತಾನೆ. ಅಲ್ಲದೆ 1ನೇ ಆರೋಪಿ ಸಾಕ್ಷಿ–1 ರವರಿಗೆ ಬರುತ್ತಿದ್ದ ಸಂಬಳವನ್ನು 2ನೇ ಆರೋಪಿತೆಯ ಬ್ಯಾಂಕ್ ಖಾತೆಗೆ ವರ್ಗಾಯಿಸುವಂತೆ ಒತ್ತಾಯ ಪಡಿಸಿದ್ದು, ಸದರಿ 1, 2 ಮತ್ತು 3ನೇ ಆರೋಪಿತರು ಸಮಾನ ಉದ್ದೇಶದಿಂದ ಸಾಕ್ಷಿ–1 ರವರಿಗೆ ಅನೇಕ ರೀತಿಯಲ್ಲಿ ಮಾನಸಿಕವಾಗಿ ಚಿತ್ರಹಿಂಸೆ ನೀಡಿ ಹೆಚ್ಚಿನ ವರದಕ್ಷಿಣೆಯಾಗಿ ಬೇಡಿಕೆ ಇಟ್ಟಿರುವುದು ಸಾಕ್ಷ್ಯಾಧಾರಗಳಿಂದ ದೃಡಪಟ್ಟ ಮೇರೆಗೆ ಮೇಲ್ಕಂಡ ಕಾನೂನಿನಡಿಯಲ್ಲಿ ಆರೋಪಿಗಳ ವಿರುದ್ದ ಈ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿ."

The entire crux of the summary is with regard to watching of Shivani's videos by the husband and the grievance is that, he is a follower of Brahmakumari and did not want to have physical relationship with the complainant. Insofar as the other accused are concerned i.e., father-in-law and mother-in-law, the allegation is that they had demanded dowry at the time of marriage and have instigated their son, 1st petitioner in that regard.

12. Certain analogous proceedings are instituted by the wife seeking annulment of marriage on the ground of cruelty due to non-consummation of marriage in a petition filed under Section 12(1)(a) of the Hindu Marriage Act in M.C.No.586 of 2020. The concerned Court by its order dated 16th November, 2022 allows the petition on the ground of cruelty by the following observation:

> *"23. Even though the petitioner has not examined the doctor, but considering the absence of the respondent, as he is not interested to conduct cross-examination of P.W.1 and enter the witness box to rebut the evidence of petitioner, this Court can draw adverse inference against him. Therefore, I am of the*

view that the petitioner has discharged the burden and she has brought on record the ingredients of Sec.12(1)(a) of The Hindu Marriage Act, 1955 that owing to impotency of the respondent, her marriage with the respondent has not been consummated. Since she has proved that it is a voidable marriage and she has also filed this petition on 31.1.2020 i.e., within one year of their marriage which took place on 18.12.2019. So, the petitioner is certainly entitled for decree of anuulment of her marriage. Hence, I answer ***Points No.1 and 2 in the Affirmative."***

and draw up the order as follows:

"24. ***Point No.3:*** *In view of my discussion and findings given on points No.1 to 3, I proceed to pass the following;*

ORDER

The petition filed under Sec.12(I)(a) and (v) of The Hindu Marriage Act, 1955, by the petitioner/wife is hereby allowed with costs.

The marriage between the petitioner and respondent solemnized on 18.12.2019, at Kodava Samaja, Ponnampet is hereby annulled by granting decree of nullity.

Draw up a decree accordingly."

Decree is also granted annulling the marriage as per the afore-extracted order. The respondent therein and the 1st petitioner herein has not challenged the same and would submit that he has accepted the decree. The decree was on the ground that the husband did not have physical relationship with the wife. He is

treated as an impotent and the decree is granted on the ground of cruelty. In the teeth of the aforesaid facts i.e., the complaint, summary of the charge sheet and a decree of divorce, whether further proceedings in C.C.No.15166 of 2020 should be permitted to be continued is the issue.

13. Insofar as accused 2 and 3/mother-in-law and father-in-law are concerned, the complaint or the summary of the charge sheet on the face of it, does not make out an iota of ingredient of Section 498A of the IPC. Section 498A of the IPC 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 of the IPC has two parts in it which define cruelty. Cruelty would mean any willful conduct which is of the nature as is likely to drive a woman to commit suicide or cause grave injury or danger to the life of the woman. The other part is harassment, where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand. The section itself punishes the husband or the relative who subjects a woman to such cruelty.

14. A perusal at the complaint would indicate no ingredient of any cruelty by the in-laws i.e., father-in-law and the mother-in-law and it is an admitted fact that the parents never stayed with the couple. In the teeth of such facts, if further proceedings are permitted to continue against the parents, it would become an abuse of the process of law and run foul of the judgment of the Apex Court in the case of ***KAHKASHAN KAUSAR v. STATE OF BIHAR***[1] wherein it is held as follows:

> "***Issue Involved***
>
> ***"10. Having perused the relevant facts and contentions made by the Appellants and Respondents, in our considered opinion, the foremost issue which***

[1] *2022 SCC OnLine SC 162*

requires determination in the instant case is whether allegations made against the in-laws Appellants are in the nature of general omnibus allegations and therefore liable to be quashed?

11. Before we delve into greater detail on the nature and content of allegations made, it becomes pertinent to mention that incorporation of section 498A of IPC was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid state intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as 498A IPC as instruments to settle personal scores against the husband and his relatives.

12. This Court in its judgment in Rajesh Sharma v. State of U.P.[4], has observed:—

> *"14. Section 498-A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the statement of Objects and Reasons of the Act 46 of 1983. The expression 'cruelty' in Section 498A covers conduct which may drive the woman to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand. It is a matter of serious concern that large number of cases continue to be filed under already referred to some of the statistics from the Crime Records Bureau. This Court had earlier noticed the fact that most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualized. At times such complaints lead to uncalled for harassment not only to the accused but also to the complainant. Uncalled for arrest may ruin the chances of settlement."*

13. Previously, in the landmark judgment of this court in Arnesh Kumar v. State of Bihar[5], it was also observed:--

> *"4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A IPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bed-ridden grandfathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested."*

14. Further in Preeti Gupta v. State of Jharkhand[6], it has also been observed:—

> *"32. It is a matter of common experience that most of these complaints under section 498A 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 are also a matter of serious concern.*
>
> *33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber 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 498A 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 fiber, peace and tranquility*

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 visualized 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 husband and all his immediate relations is also not uncommon. At times, even after the conclusion of 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 complaint are required to be scrutinized 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 amicable settlement altogether. The process of suffering is extremely long and painful."

15. In Geeta Mehrotra v. State of UP[7], it was observed:—

"21. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of G.V. Rao v. L.H.V. Prasad reported in (2000) 3 SCC 693 wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all

family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that:

> *"12…..there has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate the disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their cases in different courts." The view taken by the judges in this matter was that the courts would not encourage such disputes."*

16. Recently, in K. Subba Rao v. The State of Telangana[8], it was also observed that:—

> *"6…..The Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out."*

17. The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law.

Therefore, this court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.

18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 01.04.19, it is revealed that general allegations are levelled against the Appellants. The complainant alleged that 'all accused harassed her mentally and threatened her of terminating her pregnancy'. Furthermore, no specific and distinct allegations have been made against either of the Appellants herein, i.e., none of the Appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are therefore general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High court, we have not examined the veracity of allegations made against him. However, as far as the Appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.

19. Furthermore, regarding similar allegations of harassment and demand for car as dowry made in a previous FIR. Respondent No. 1 i.e., the State of Bihar, contends that the present FIR pertained to offences committed in the year 2019, after assurance was given by the husband Md. Ikram before the Ld. Principal Judge Purnea, to not harass the Respondent wife herein for dowry, and treat her properly. However, despite the assurances, all accused continued their demands and harassment. It is thereby contended that the acts constitute a fresh cause of action and therefore the FIR in question herein dated 01.04.19, is distinct and independent, and cannot be termed as a repetition of an earlier FIR dated 11.12.17.

20. Here it must be borne in mind that although the two FIRs may constitute two independent instances, based on separate transactions, the present complaint fails to establish specific allegations against the in-laws of the Respondent wife. Allowing prosecution in the absence of clear allegations against

the in-laws Appellants would simply result in an abuse of the process of law.

21. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the accused appellants, it would be unjust if the Appellants are forced to go through the tribulations of a trial, i.e., general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must therefore be discouraged.

22. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the accused appellants, it would be unjust if the Appellants are forced to go through the tribulations of a trial, i.e., general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must therefore be discouraged."

(Emphasis supplied)

In the light of the judgment of the Apex Court as afore-extracted, the proceedings against in-laws are required to be obliterated.

15. Insofar as the husband/1st petitioner is concerned, the complaint narrates several grievances and those grievances are trivial in nature. It is the averment that the complainant knew about the attitude of the husband. Even then, she gets married

due to the force of elders of the family thinking that the husband would become alright and stayed only for 28 days in the matrimonial house. In those 28 days, neither the complaint nor the summary charge sheet narrates any factum/incident that would become an ingredient of Section 498A of the IPC. The only allegation is that, he is a follower of *Brahmakumari; always was watching videos of one sister Shivani, a Brahmakumari; gets inspired by watching those videos, always told that love is never getting physical, it should be soul to soul*. On this score, he never intended to have physical relationship with his wife. This would undoubtedly amount to cruelty due to non-consummation of marriage under Section 12(1)(a) of the Hindu Marriage Act and not cruelty as is defined under Section 498A of the IPC. It is on the basis of such cruelty a decree of divorce is granted to the complainant and on the same basis, criminal proceedings cannot be permitted to be continued. Finding no ingredient even against the husband, the proceedings if permitted to continue would degenerate into harassment, become an abuse of the process of law and ultimately result in miscarriage of justice.

16. In matrimonial cases, the Apex Court has time and again directed that unless the offences are found *albeit prima facie,* such proceedings should not be permitted to continue. The Apex Court in the case of ***SHAFIYA KHAN v. STATE OF UTTAR PRADESH AND ANOTHER***[2]***,*** has held as follows:

> ***"18. Although it is true that it was not open for the Court to embark upon any enquiry as to the reliability or genuineness of the allegations made in the FIR, but at least there has to be some factual supporting material for what has been alleged in the FIR which is completely missing in the present case and documentary evidence on record clearly supports that her Nikah Nama was duly registered and issued by competent authority and even the charge-sheet filed against her does not prima facie disclose how the marriage certificate was forged.***
>
> ***19. In the given circumstances and going through the complaint on the basis of which FIR was registered and other material placed on record, we are of the considered view that no offence of any kind as has been alleged in the FIR, has been made out against the appellant and if we allow the criminal proceedings to continue, it will be nothing but a clear abuse of the process of law and will be a mental trauma to the appellant which has been completely overlooked by the High Court while dismissing the petition filed at her instance under Section 482 CrPC."***
>
> *(Emphasis supplied)*

In the light of the judgments rendered by the Apex Court in the cases of ***KAHKASHAN KAUSAR*** and ***SHAFIYA KHAN*** (*supra*), I

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[2] *(2022) 4 SCC 549*

deem it appropriate to exercise the inherent jurisdiction under Section 482 of the Cr.P.C. and obliterate entire proceedings against all the accused.

17. For the aforesaid reasons, I pass the following:

O R D E R

a. The Criminal petition is allowed.
b. The proceedings in C.C.No.15166 of 2020 pending on the file of the XXX Additional Chief Metropolitan Magistrate, Bengaluru, arising out of Crime No.15 of 2020 of Jayaprakash Nagar Police Station, Bengaluru, stand quashed.

Sd/-
JUDGE

nvj
CT:SS