



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/CRIMINAL MISC.APPLICATION NO. 3259 of 2016**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR. JUSTICE J. C. DOSHI**

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?	
2	To be referred to the Reporter or not ?	
3	Whether their Lordships wish to see the fair copy of the judgment ?	
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	

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RAMESHBHAI DANJIBHAI SOLANKI & 7 other(s)

Versus

STATE OF GUJARAT & 1 other(s)

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Appearance:

MS E.SHAILAJA(2671) for the Applicant(s) No. 1,2,3,4,5,6,7,8

MR NIRAD D BUCH(4000) for the Respondent(s) No. 2

MR RONAK RAVAL, ADDL. PUBLIC PROSECUTOR for the Respondent(s)

No. 1

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**CORAM:HONOURABLE MR. JUSTICE J. C. DOSHI**

**Date : 18/08/2023**

**CAV JUDGMENT**

Rule. Learned APP waives service of notice of rule for the respondent State and learned advocate Mr. Nirad Buch waives service of notice of rule for the respondent No.2.



1. With the consent of learned advocates appearing for the respective parties, the matter is taken up for final hearing.
2. This petition is filed u/s 482 of the Code of Criminal Procedure, 1973 by the petitioners for quashing and setting aside the impugned FIR being I – C.R. No. 0055 of 2015 registered with Chuda Police Station for the offences punishable u/s 498(A), 294(b), 323, 114, 506(2), 494 and 114 of the IPC.
3. The contents of the FIR read thus:-

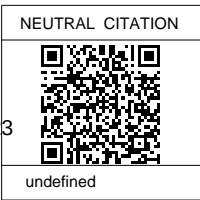
*“My name is Sonalben D/o Mithabhai Jivabhai Sorathiya, caste – Scheduled Caste, Aged About 29, occupation – Housewife, R/a. Kanthariya, Taluka – Chuda, District Surendranagar, Mobile No. 7600702632.*

*Being asked personally, I declare and dictate the facts of my complaint that I reside at the above mentioned address with my father and my daughter Nisha, aged 9 years. I am a housewife. We are three brothers and sisters, wherein I am the eldest and Ajay is younger to me and the youngest sister is Gayatri. My marriage was solemnized with Rameshbhai Dhanjibhai Solanki, native of Rojid, Taluka Barvala and presently residing at Dubechal, beside Chandralok Building, Arthar Road, Goregav West, Mumbai 7, before about ten years i.e. on 06.03.2005.*

*You, the Police of Chuda have read over an application to me today, which is addressed to P.S.I. Chuda Police Station. I have made thumb impression therein. Being asked about this application, I state that after my marriage was solemnized on last 06.03.2005, my in-laws had taken me to the above mentioned address at Mumbai. They behaved well with me during the beginning days at Mumbai. The family members of my in-laws, which included my husband Ramesh Dhanjibhai, father-in-law Dhanjibhai Bhikhabhai, mother-in-law Savitaben, jeth (husband’s elder brother) Hareshbhai, jethani Premilaben, nanad (husband’s sisters) namely Hansaben, Ushaben and Surekhaben, were residing in a joint family*



*and they were physically and mentally harassing me frequently. All those above mentioned persons instigated by husband and used to get me assaulted. I endured this suffering for about one and a half year. In the meantime, I became pregnant by husband and hence, under the pretext of my delivery, my husband dropped me at my maternal home in Kanthariya. I was given medicine for abortion and as I denied for the same, I was told that he does not want me and came to drop me at Kanthariya and at that time, my husband had threatened me that if abortion is not done, he will kill me. However, as I wanted to sustain my marital life, I did not file any complaint. However, as my in-laws did not take me back, I was forced to prefer maintenance case in Limbadi Court in the year 2011 and maintenance of Rs. 2500/- for me and Rs. 1500/- for my daughter Nisha was granted. My husband used to pay maintenance only some times. When I used to be at Kanthariya, my husband used to make calls to me from unknown numbers that I should give divorce or else he will kill me. Whenever, my in-laws namely my husband Ramesh Dhanjibhai, my mother-in-law Savitaben and father-in-law Dhanjibhai etc. used to come to attend the Court on adjournments and they visited Kanthariya and during that time also, those persons told me that I should give divorce and that they do not want me anymore. As I denied to do the same, they used to threaten to kill me. After this, on last 02.08.2015, our relative Shivabhai Jivabhai Sagathiya came and told me that when he had visited the house of my in-laws, he found that my husband Rameshbhai had done second marriage and my in-laws had stated to convey to Sonal that Ramesh had done second marriage and that they do not want to take me back and that I should do whatever I want. By conveying the same, they meted out mental harassment to me. I had come to know that my husband has got married with Dipika, daughter of Chhanabhai Danabhai, native of Hadmatiya, Taluka Vallabhpur, presently residing at Mumbai, Nala Sopara, Ganeshwadi. This marriage is done without my consent and without obtaining divorce from me. Hence, I have been forced to lodge this complaint. Therefore, it is my lawful complaint to take action against my above mentioned in-laws as they have mentally and physically harassed me, threatened over the phone as also in person to give divorce and also threatened to kill me.*



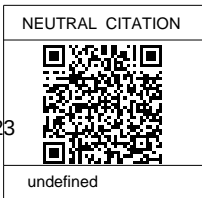
*This much fact of my complaint is true and correct and as the same is read over to me, I have made my right hand thumb impression below.“*

4. Perusal of the FIR indicates that the respondent/complainant without mentioning the time, date and place, alleged ill-treatment, cruelty and harassment against the petitioners; no specific incident is alleged. The respondent/complainant has also not mentioned that in which way, she was physically and mentally harassed by the petitioners. The allegations levelled are in general form. It also appears that the fact of abortion is stated without support of any medical evidence. Lastly, by mentioning the date as 2.8.2015, the respondent/complainant alleged that Shivabhai Jivabhai Sagathiya came and told the respondent/complainant that her husband Rameshbhai has contracted second marriage. Putting this fact in single compass, the complainant has lodged the complaint.

5. Heard learned advocate Ms. E. Shailaja for the petitioners, learned advocate Mr. Nirad Buch for the respondent/complainant and learned APP Mr. Ronak Raval for the respondent State.

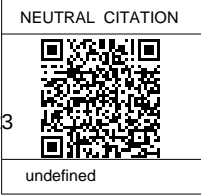
6. During the course of hearing, learned APP submits the report filed by the PSI, Chuda Police Station, which is taken on record.

7. Learned advocate Ms. E. Shailaja for the petitioners drew attention of this Court towards Annexure B and submit that the Family Court at Bandra, Mumbai in Petition No.2639 of 2011, by



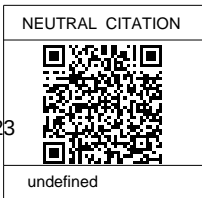
reasoned order, on 25.2.2014, granted divorce in favour of the petitioner No.1 Rameshbhai. She would further submit that present FIR being design and device to harass the petitioners is filed on 26.12.2015 by the respondent/complainant. She would further submit that perusing the contents of the FIR, it indicates that the complainant was well aware of the decree of divorce passed in Petition No.2639 of 2011 by the competent Court dated 25.2.2014. Yet, as an afterthought and to harass the petitioners, the complainant, whose status was that of the divorcee wife, preferred the complaint, which is nothing, but abuse of process of law. She would further submit that in the case on hand, the respondent/complainant has misused section 498A along with allied offences of the IPC and therefore, present petition deserves consideration.

7.1 Learned advocate Ms. E. Shailaja for the petitioners would submit that once divorce is granted by the competent Court and not been challenged or reversed by the appellate Court, the status of the wife post such decree would be divorcee wife and she cannot file complaint u/s 498A being the principal offence, as status of husband and wife was discontinued on passing the divorce decree. He would further submit that admittedly, impugned FIR is filed almost 20 months subsequent to divorce decree is granted. He would further submit that in view of such fact on record, first informant since has misused provisions of law, the petition may be allowed and the impugned FIR may be quashed and set aside.



8. Vehemently opposing relief claimed in this petition as well as arguments canvassed by learned advocate Ms. E. Shailaja, learned advocate Mr. Nirad Buch would argue that divorce decree at Annexure B is passed in absence of the present complainant, she was never aware of the divorce decree passed by the learned Family Court, Mumbai. While referring page No.57 of compilation, he would submit that on 1.3.2021, one "*Gharmele Samjuti Karar*" was executed between the petitioner No.1 Rameshbhai and respondent No.2 complainant Sonalben, both of them have restored their marriage life, but even thereafter, the harassment and cruelty were being continued to be meted out to the respondent/complainant and in that circumstances, looking to the conduct of the petitioner No.1, subsequent to filing of the FIR, it can be prima facie said that the contents of the FIR is true and correct and therefore, the petition should not be allowed and the complainant should not be non-suited at threshold. Upon such submission, he submits to dismiss the petition.

9. Learned APP Mr. Ronak Raval for the State would join the submissions of learned advocate Mr. Nirad Buch. He would submit that whatever the grounds mentioned in this petition for quashing of the FIR being a defence of the petitioner can be tested during the investigation and if necessary, during trial. He would further submit that scope of exercise of powers u/s 482 of the Code is limited. At the time of exercising powers u/s 482 of the Code, this Court has to see whether sufficient material is available for sending parties to the trial and if answer is

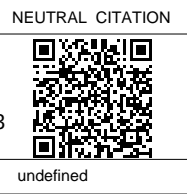


affirmative, petitioner should be sent for trial. This submission is canvassed to dismiss the petition.

10. No other and further submissions are canvassed by learned advocates for both the sides.

11. Having heard learned advocates for both the sides and having perused the record, certain following undisputed facts emerges:-

- Petitioner No.1 Rameshbhai and respondent/complainant Sonalben were legally wedded husband and wife.
- Marriage between petitioner No.1 and the respondent/complainant solemnized on 6.3.2005.
- The wedlock between the petitioner No.1 and the respondent/complainant has resulted into birth of daughter, aged about 09 years on the date of filing of the impugned FIR.
- Certain matrimonial disputes took place between the parties.
- The petitioner No.1 filed Petition No.2639 of 2011 u/s 13(1) (i-a) and (i-b) of the Hindu Marriage Act, 1955 before the Family Court at Mumbai on 8.11.2011 seeking divorce. Summons of the divorce petition was served to the respondent/complainant (See Annexure B, page 21).
- respondent/complainant did not remain present before the Family Court at Mumbai.
- After examining the evidence on record, the learned Family Judge, Mumbai vide judgment and decree dated 25.2.2014 granted divorce in favour of the petitioner No.1.



- The judgment and decree passed by the Family Court, Mumbai has not been challenged before the higher forum and thus, it attained finality.
- The captioned FIR was filed on 26.12.2015.

12. In background of the above undisputed facts, what emerges is that when the FIR for the offences u/s 498A and other allied offences filed, the divorce decree has already been granted by the competent Court and the same was operating against the respondent/complainant. In other words, the complainant was divorcee wife at the time of filing the impugned FIR. It should be noted that the captioned FIR was filed by the respondent/complainant almost after 20 months of passing of the judgment and decree by the competent Court.

13. The principal offences alleged in the FIR are under section 498A and 494 of the IPC. For ready reference, both the sections are reproduced hereunder:-

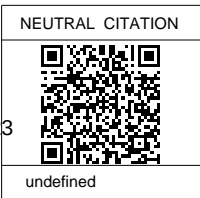
*“[498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.*

*Explanation.—For the purpose of this section, “cruelty” means—*

*(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or*

*(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]*

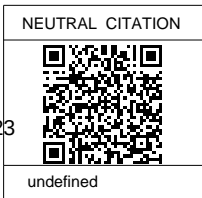




*494. Marrying again during lifetime of husband or wife.—Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.*

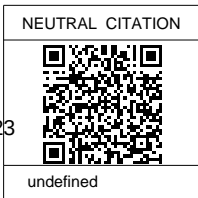
*(Exception) —This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.”*

14. The plain reading of sections 498A of the IPC shows that expression used therein referred to the accused are “the husband” and “relatives of the husband”. The expression being “the husband” and “relatives of the husband” in ordinary parlance would come “in capacity as husband” or “is being husband”. The expression is reflective for the proposition that for levelling the allegation u/s 498A of the IPC, the status of “the husband” or “relatives of the husband” must exist. The simple meaning is that for levelling the allegations of offence, the accused must be “the husband” or “relatives of the husband” or he could be “in capacity of the husband” or “in capacity of relatives of the husband”. This expression does not include “former husband” or “ex-husband” or “relative of the former husband or ex-husband.” The Legislature while using expression “the husband” or “relatives of the husband” in section 498A of the IPC, used the word “woman” and not “wife”.



Meaning thereby, allegations of the offence u/s 498A of the IPC even can be maintained at the instance of the divorcee wife, provided that she alleges the incident of harassment and cruelty which could have been meted out while marriage was subsisting. However, she cannot file complaint alleging offence u/s 498A of the IPC putting allegation of an incident, which could have been taken place subsequent to the divorce. Once the competent Court passed the decree of divorce, the marital status of the husband and wife is snapped and the pre-requisite condition of section 498A of the IPC “being the husband” or “relatives of the husband” disappears. In the present case, when the FIR was filed alleging offence punishable u/s 498A read with allied offences, the status of the complainant and the petitioner No.1 i.e. being husband and wife was snapped by divorce decree passed by the competent Court. Admittedly, the petitioner No.1 was not the husband of the complainant nor other petitioners are relatives of the husband. On reading the FIR, what emerges that the complainant has not alleged harassment and cruelty for the time period the marriage was subsisting. No specific incident of harassment and cruelty has been indicated in the FIR when the marriage was subsisting. What appears from the bare reading of the FIR is that the complainant was aggrieved on the ground that the petitioner No.1 remarried subsequent to divorce decree. The allegations levelled therein for harassment and cruelty could be said to have been made for the time period subsequent to the divorce.

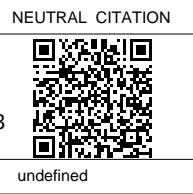
15. Alike plain reading of section 494 of the IPC indicates that if husband or wife marries again during life time of husband or



wife, it is an offence. Again to attract offence u/s 494 of the IPC, requisite condition is status of being husband and wife. In other words, the essential requirement is that if during subsistence of marriage or during the consummation of the marriage, husband or wife marries again, it is an offence.

16. In case on hand, the marital status of the party was discontinued on 25.2.2014 as the competent Court granted the divorce decree and removed the parties from the status of husband or wife. Recently, the Hon'ble Apex Court in case of Mahmood Ali and others Vs. State of U.P. and others rendered in Criminal Appeal No.2341 of 2023, held and observed that while exercising the extraordinary powers u/s 482 of the Code of Criminal Procedure, the Court owes a duty to read between the lines and if the proceedings found to be frivolous or vexatious in background of the attending circumstances, the Court may pass necessary order. The Hon'ble Apex Court in para 12 has observed thus:-

*"12. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or 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 for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the*

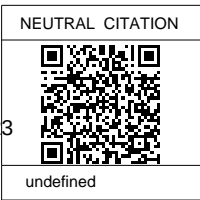


*averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into 13 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 try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”*

17. With profit, I may also refer to the findings and observations of the Hon'ble Apex Court in case of Mohammad Miyan and others Vs. State of UP and another reported in (2019) 13 SCC 398. The relevant para is para 4 and 5, which reads as under:-

*“4. Mr. R. K. Das, learned Senior Counsel appearing for the appellants-accused, submits that the prosecution under section 498A of IPC was clearly not tenable in view of the case of the complainant herself that there had been a divorce almost four years before filing of the FIR.*

*5. We find much substance in the submission made by Mr. Das, learned Senior Counsel appearing for the appellants-accused. Even in the FIR dated 18.8.2015, the complainant-wife has stated that her divorce had taken place about four years back. It is not possible to accept the contention made by learned counsel appearing on behalf of complainant-wife that she made the statement in*

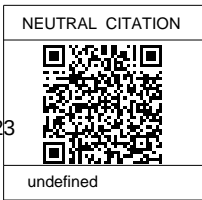


*ignorance of Sharia law. She is a Headmistress and must be credited with due knowledge of her meritorious status. 3 In view of her own averment that she was divorced four years ago, we are of the view that the prosecution is not sustainable under section 498A of the IPC and Sections 3/4 of the Dowry Prohibition Act, 1961.”*

18. Perusal of the FIR as it is, it indicates that general allegations are levelled against the petitioners without specifying any details about harassment or cruelty, which could have been meted out to her during the time period, the marriage was subsisting or marriage was in existence. The divorce decree dated 25.2.2014 has removed status of the petitioner No.1 and the respondent/complainant as husband and wife. The FIR is filed on 26.12.2015, much subsequent to granting of the divorce decree. The FIR also indicates that the respondent/complainant came to know about subsequent marriage of the petitioner No.1 on 2.8.2015 and thus, she alleged offence u/s 494 in addition to the offence u/s 498A and other allied offence of the IPC.

19. Admittedly, on 2.8.2015, the marriage between the petitioner No.1 and the respondent/complainant was not in existence and they were not husband and wife. In view of that, offence u/s 494 of the IPC is also not made out.

20. As stated earlier, no specific allegation of cruelty and harassment being meted out to the respondent/complainant was alleged against the petitioners for the time period marriage between them was in existence. It appears that the FIR is filed for wracking vengeance and is a counterblast to the divorce decree granted by the competent Court in favour of the petitioner



No.1. As observed in earlier part of the order and judgment, on the date of filing the FIR, status of husband and wife was splintered. FIR does not disclose allegation of cruelty or harassment for the time period when marriage was prevailing. Impugned FIR on its bare face indicates that it is filed against former husband and his relatives by divorcee wife. Reading between the lines, the FIR indicates that it is filed to achieve desired motive. No case for offence u/s 498A r/w 494 and allied offences of the IPC are made out.

21. Learned advocate Mr.Buch referring to "*Gharmele Samjuti Karar*", would submit that both the parties have restored their marital status by way of this Karar. This Court has failed to recognize such procedure to restore matrimonial status by way of "*Gharmele Samjuti Karar*", more particularly, in presence of subsisting divorce decree passed by the competent Court. Even otherwise, such "*Gharmele Samjuti Karar*" on its face indicates date of 1.3.2021 much subsequent to the date of filing of the FIR and therefore, that "*Gharmele Samjuti Karar*" has no relevance to the dispute.

22. At this juncture, I may refer to case of State of Haryana Vs. Bhajanlal reported in AIR 1992 SC 604, interpreting section 482 of the Code of Criminal Procedure read with Article 226 of the Constitution of India, principally, inherent power of this Court, the Hon'ble Apex Court made following observations:-

*"In the backdrop of the interpretation of the various relevant provisions of the Code under Ch.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 u/s 482 of the Code of Criminal Procedure which we have extracted and reproduced above, the following categories of cases are given 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 formula 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 F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;*

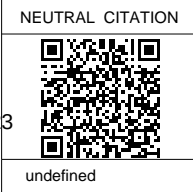
*(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;*

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

*(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;*

*(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act,*

*(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.”*

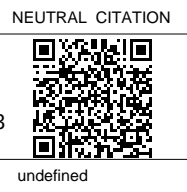
23. In background of the facts of the case, this Court is of the view that the case of the present petition falls within the parameter Nos.1<sup>st</sup>, 5<sup>th</sup> and 7<sup>th</sup> respectively of Bhajanlal (supra).

24. In State of Andhra Pradesh v. Golconda Linga Swamy, (2004) 6 SCC 522, the Hon’ble Apex Court elaborated on the types of materials, the High Court can assess to quash an FIR. A subtle distinction between consideration of materials that were tendered as evidence and appreciation of such evidence is drawn by the Hon’ble Apex Court and has held that such material that manifestly fails to prove the accusation in the FIR can be considered for quashing an FIR. The Hon’ble Apex Court held thus:-

*“5. ...Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.*

*6. In R.P. Kapur v. State of Punjab, AIR 1960 SC 866 : 1960 Cri LJ 1239, this Court summarised some categories of cases where inherent power can and should*





*be exercised to quash the proceedings : (AIR p. 869, para 6)*

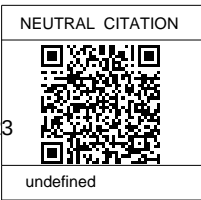
*(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;*

*(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.*

*7. In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence 15 or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process, no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death.....” (Emphasis supplied)”*

25. On reading the FIR as it is, it does not disclose essential ingredients of offence punishable u/s 498A as well as u/s 494 and other allied offence of the IPC. Thus, allowing the FIR to continue into investigation and further continue into criminal case would be humiliating to the petitioners and it would amount to abuse of process of the Court. Therefore, the



proceedings are required to be quashed and set aside to meet with the ends of justice.

26. For the foregoing reasons, present petition is allowed and impugned FIR being I – C.R. No. 0055 of 2015 registered with Chuda Police Station and all consequential proceedings arising therefrom are hereby quashed and set aside.

SHEKHAR P. BARVE

**(J. C. DOSHI,J)**