

AFR

Neutral Citation No. **2024:AHC:105603**

Reserved :- **27/06/2024**

Delivered :- **01/07/2024**

Court No. - 74

Case :- APPLICATION U/S 482 No. - 19062 of 2024

Applicant :- Mohd Ashraf And 7 Others

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Syed Shahnawaz Shah

**Counsel for Opposite Party :- G.A.,Mukesh Chandra
Gupta,Shubham Prakash Gupta**

Hon'ble Saurabh Shyam Shamsbery,J.

1. Applicant no.1 before this Court is husband of opposite party no.2 whereas applicants no. 2 to 8 are his close relative including some women family members.

2. Opposite party No.2 got married with applicant no.1 on 30.03.2017 and it appears that there were some matrimonial dispute between them and thereafter in the year 2022, she left her matrimonial house allegedly either on her own will or by force and went to her parental house alone without her 2 sons.

3. In aforesaid circumstances, opposite party no.2/complainant has lodged an FIR on 25.02.2023 bearing FIR No. 0045/2023 against all applicants alleging that they have committed offence under Sections 498-A, 323, 504, 506 IPC and Section 3/4 of D.P. Act and for reference relevant part of FIR is quoted below :-

“निवेदन है कि प्रार्थनी का निकाह दिनांक 30.03.2017 को मौ० अशरफ पुत्र मौलाना अनवार निवासी ग्राम खजूरी थाना परिक्षितगढ़, जिला मेरठ के साथ हुआ था। जिसमें प्रार्थनी की बेबा माँ ने लगभग 10 लाख रुपये खर्च किये थे। लेकिन किये गये खर्च से प्रार्थनी की पति मौ० अशरफ, ससुर अनवर, सास श्रीमति रशिदा, जेठ राशिद

एवं कारी साजिद एवं जिठानी खदीजा एवं एव नन्द मूहम्मदी व नन्द मूहम्मदी व छोटी नन्द उम्मेहानी व बड़ी नन्द मूहम्मदी खुश नहीं थे तथा निकाह के तुरन्त बाद से प्रार्थनी की ससुराल के उपरोक्त सभी लोगो ने प्रार्थनी से आय दिन 5 लाख रुपये नगद व एक बुलेरो कार की मांग करनी शुरू दी थी प्रार्थनी से आये दिन गाली गलोच व मारपीट करते थे और प्रार्थनी को जान से मारने की धमकी देते थे अपनी दहेज की मांग पूरी न होने के कारण अब से करीब 10 Oct, 2022 को मेरा पति मौ० अशरफ मुझे मेरे घर पर छोड़ कर गया और दोनो बच्चे अपने साथ ले गये थे जब भी मैं या मेरी मम्मी, यदि मेरे, परिवार वाले नासिर एव हाशिम ले जाने के लिए कहते है। तो मेरा पति कहता है। कि अगर तू मेरे यहाँ पर आयेगी तो हम तुझे जान से मार डालेंगे अतः श्रीमान जी से कानूनी कार्यवाही करने की कृपा करे।”

4. On basis of above referred FIR, investigation was conducted and statement of complainant and other witnesses were recorded which are mentioned below :-

“बयान गवाह राहिना पत्नी स्व० आबिद नि० ग्राम अजराडा थाना मुंडाली जिला मेरठ उम्र करीब 55 वर्ष ने अपनी बेटी द्वारा लिखाई गयी एफआईआर का समर्थन करते हुये बताया कि मैं ग्राम अजराडा थाना मुंडाली मेरठ की रहने वाली हूँ मैंने मेरी लडकी कमरजह का निकाह करीब 5 वर्ष पूर्व ग्राम ग्राम खजूरी मे अशरफ पुत्र मौलाना अनवार निवासी ग्राम खजूरी थाना परिक्षितगढ, जिला मेरठ के साथ किया था। शादी के बाद कुछ दिन तक तो सब कुछ ठीक चलता रहा फिर उसके बाद मेरी लडकी के ससुराल वाले आये दिन अतिरिक्ति दहेज को लेकर मारपीट व गाली गलौज करते रहते थे। मेरी लडकी के दो बच्चे है। मैंने उसके ससुरालवालो को काफी समझाया लेकिन हर बार वो मेरी बेटी को मेरे घर पर छोड़ जाते और इस बार तो काफी समय से छोड़कर गये है और तब से लेने नहीं आये है। और जब मेरी बेटी फोन पर अपने बच्चो को लेने की बात करती है तो इसको जान से मारने की धमकी देते है इसीलिए मेरी बेटी ने अपने ससुरालवालो के खिलाफ थाना मे रिपोर्ट देकर मुकदमा लिखाया था जो बात सही थी वह मैंने आपको बता दी है। यही मेरा बयान है।

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नकल बयान पीडिता अन्तर्गत धारा 161 CrPC..... बयान अन्तर्गत धारा 161 सीआरपीसी व्यान पीडिता कमरजह पत्नी अशरफ नि० अजराडा थाना मुंडाली मेरठ सम्बन्धित मु०अ०स० 45/2023 धारा 498A/323/504/506 भादवि व 3/4 दहेज अधि० थाना मुण्डाली मेरठ बयान पीडिता: कमरजह पत्नी अशरफ नि० अजराडा थाना मुंडाली मेरठ ने पूछने पर बताया कि मेरा नाम कमरजह है। मेरी उम्र करीब 22 वर्ष है। मेरी शादी करीब 5 साल पहले अशरफ पुत्र मौलाना अनवार निवासी ग्राम खजूरी थाना परिक्षितगढ, जिला मेरठ के साथ हुई थी। कुछ दिन तक तो मेरी ससुराल वालों ने ठीक रखा लेकिन कुछ दिन बाद ही दहेज को लेकर मेरे साथ मारपीट व गाली गलौच करने लगे। इसी बीच मेरे दो बच्चे हुये। मेरे पति मौ० अशरफ, ससुर अनवर, सास श्रीमति रशिदा, जैठ राशिद एवं कारी साजिद एवं

जिठानी खदीजा एव नन्द मुहम्मदी व नन्द मुहम्मदी व छोटी नन्द उम्मेहानी व बडी नन्द मुहम्मदी मुझसे खुश नहीं थे। और मुझसे दहेज मागते थे। कई बार ये गुझे मारपीट करके मेरे घर छोड आते और मेरे घरवालों ने कई बार समझा बुझाकर मुझे मेरी ससुराल में भेज दिया। लेकिन हर बार की तरह इस बार भी इन लोगो ने मिलकर मेरे साथ मारपीट की और मुझे जान से मारने की धमकी दी और मुझे मेरे मायके छोड गये तब से न तो कोई लेने आया है और न ही मुझसे कोई फोन पर बात करता है। यह बयान मैं अपनी मर्जी से बिना किसी दबाव के दे रही हूँ।

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बयान गवाह- नासिर पुत्र औसाफ निवासी अजराडा थाना मुण्डाली मेरठ के द्वारा अपने बयान दर्ज कराते हुये बताया कि मेरी भांजी कमरजहाँ की शादी वर्ष 2017 में अशरफ पुत्र मौलाना अनवार निवासी खजूरी थाना परीक्षितगढ से हुई थी शादी में करीब 10 लाख रुपये खर्च किये गये थे लेकिन शादी के खर्च से 1. पति अशरफ पुत्र मौलाना अवार 2. रशीदा पत्नी अनवार 3. राशिद पुत्र अनवार 4. कारी साजिद 5. खदीजा 6. अनवार 7. मुहम्मदी 8. उम्मेहानी नि०गण ग्राम खजूरी थाना परीक्षितगढ मेरठ खुश नहीं थे तथा निकाह के तुरन्त बाद से कमरजहाँ दहेज में 5 लाख रुपये नगद व एक बुलेरो कार की मांग करते तथा आये दिन गाली गलोच व मारपीट करते थे और जान से मारने की धमकी देते थे अपनी दहेज की मांग पूरी न होने के कारण मौ० अशरफ कमरजहाँ को घर पर छोड कर गया था और कमरजहाँ के दोनो बच्चे अपने साथ ले गये थे जब भी मैं तथा मेरा भाई हाशिम तथा मेरी बहन राहिना लोग कमरजहाँ को ले जाने के लिए कहते तो अशरफ कहता था कि अगर तू मेरे यहाँ पर आयेगी तो हम तुझे जान से मार डालूंगा। जिसके सम्बन्ध में कमरजहाँ ने मुकदमा लिखाया गया था यही मेरा बयान है।

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बयान गवाह हाशिम पुत्र औसाफ निवासी अजराडा थाना मुण्डाली मेरठ के द्वारा अपने बयान दर्ज कराते हुये बताया कि मेरी भांजी कमरजहाँ की शादी वर्ष 2017 में अशरफ पुत्र पुत्र मौलाना अनवार निवासी खजूरी थाना परीक्षितगढ से हुई थी शादी में करीब 10 लाख रुपये खर्च किये गये थे लेकिन शादी के खर्च से 1. पति अशरफ पुत्र मौलाना अवार 2. रशीदा पत्नी अनवार 3. राशिद पुत्र अनवार 4. कारी साजिद 5. खदीजा 6. अनवार 7. मुहम्मदी 8. उम्मेहानी नि०गण ग्राम खजूरी थाना परीक्षितगढ मेरठ खुश नहीं थे तथा निकाह के तुरन्त बाद से कमरजहाँ दहेज में 5 लाख रुपये नगद व एक बुलेरो कार की मांग करते तथा आये दिन गाली गलोच व मारपीट करते थे और जान से मारने की धमकी देते थे अपनी दहेज की मांग पूरी न होने के कारण मौ० अशरफ कमरजहाँ को घर पर छोड कर गया था और कमरजहाँ के दोनो बच्चे अपने साथ ले गये थे जब भी मैं तथा मेरा भाई नासिर तथा मेरी बहन राहिना लोग कमरजहाँ को ले जाने के लिए कहते तो अशरफ कहता था कि अगर तू मेरे यहाँ पर आयेगी तो हम तुझे जान से मार डालूंगा। जिसके सम्बन्ध में कमरजहाँ ने मुकदमा लिखाया गया था यही मेरा बयान है।”

5. After investigation, charge sheet was filed wherein trial Court took cognizance and summoned the applicants vide order dated 28.08.2023 under Sections 498-A, 323, 504, 506 IPC and Section 3/4 of D.P. Act.

6. Sri Syed Shahnawaz Shah, learned counsel for applicants has submitted that it is a counterblast criminal case. Behaviour of opposite party no.2/complainant was not good and she was not ready to live along with applicant no.1 and ultimately, applicant no.1 has filed a divorce petition bearing Suit No. 2729 of 2022 on 19.10.2022 and when notice was issued on it, as a counterblast, subsequently, FIR was lodged by opposite party no.2 on 25.02.2023 a creature of wrecking vengeance.

7. Learned counsel has further submitted that on basis of contents of statement recorded during investigation, there are omnibus allegations against applicant no.1 and his family members i.e. other applicants. There is no specific averment of commission of offences referred above and it was filed only to harass applicant no.1 and his family members including women members.

8. Aforesaid submissions are opposed by Sri Shubham Prakash Gupta, learned counsel for opposite party no.2 that complainant and other witnesses have specifically stated about occurrence and on basis of their statements, all ingredients of above referred offences are made out.

9. Heard learned counsel for parties and perused the record.

10. Before adverting to rival submissions it would be relevant to refer few paragraph of a recent judgement passed by

Supreme Court in A.M. Mohan Vs. State Represented by SHO and another, 2024 SCC OnLine SC 339, as under :-

“9. The law with regard to exercise of jurisdiction under Section 482 of Cr. P.C. to quash complaints and criminal proceedings has been succinctly summarized by this Court in the case of Indian Oil Corporation v. NEPC India Limited¹ after considering the earlier precedents. It will be apposite to refer to the following observations of this Court in the said case, which read thus:

“12. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few— Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234], State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426], Rupan Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059], Central Bureau of Investigation v. Duncans Agro Industries Ltd. [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045], State of Bihar v. Rajendra Agrawalla [(1996) 8 SCC 164 : 1996 SCC (Cri) 628], Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401], Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 : 2000 SCC (Cri) 615], Hridaya Ranjan Prasad Verma v. State of Bihar [(2000) 4 SCC 168 : 2000 SCC (Cri) 786], M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283]. The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused. For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a

meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out : (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not."

11. Crux of argument of learned counsel for applicants is that since applicant no.1 has filed a divorce petition against her wife i.e. complainant, therefore, she has made a counterblast

case in order to pressurize the applicants and lodged an FIR not only against applicant no.1 but his family members including women on basis of omnibus false allegations, whereas learned counsel for opposite parties have supported the investigation, charge sheet and summoning order.

12. At this stage, it would be apt to refer few paragraphs of a judgment of Supreme Court in **Kahkashan Kausar @ Sonam and others vs. State of Bihar and others, (2022) 6 SCC 599** wherein after considering various judgments of Supreme Court viz., **Rajesh Sharma and others vs. State of UP and another, (2018) 10 SCC 472**, **Arnesh Kumar vs. State of Bihar and another, (2014) 8 SCC 273**, **Preeti Gupta and another vs. State of Jharkhand and another, (2010) 7 SCC 667** and **Geeta Mehrotra and another vs. State of U.P. and others, (2012) 10 SCC 741** it was observed as follows:-

“18. 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.”

[emphasis supplied]

13. In a recent judgment of Supreme Court in **Priyanak Jaiswal vs. The State of Jharkhand and others, 2024 INSC 357** it has been held as follows :-

"13. We say so for reasons more than one. This Court in catena of Judgments has consistently held that at the time of examining the prayer for quashing of the criminal proceedings, the court exercising extra-ordinary jurisdiction can neither undertake to conduct a mini trial nor enter into appreciation of evidence of a particular case. The correctness or otherwise of the allegations made in the complaint cannot be examined on the touchstone of the probable defence that the accused may raise to stave off the prosecution and any such misadventure by the Courts resulting in proceedings being quashed would be set aside. This Court in the case of Akhil Sharda¹ held to the following effect:

"28. Having gone through the impugned judgment and order passed by the High Court by which the High Court has set aside the criminal proceedings in exercise of powers under Section 482 Cr.P.C., it appears that the High Court has virtually conducted a mini trial, which as such is not permissible at this stage and while deciding the application under Section 482 Cr.P.C. As observed and held by this Court in a catena of decisions no mini trial can be conducted by the High Court in exercise of powers under Section 482 Cr.P.C. jurisdiction and at the stage of deciding the application under Section 482 Cr.P.C., the High Court cannot get into appreciation of evidence of the particular case being considered."

14. In above background, I have carefully perused the contents of FIR and statement of complainant and witnesses recorded during investigation. Marriage of applicant no.1 and complainant was solemnized about 5 years ago and despite making an averment that she has suffered repeated cruelty and there were repeated demand of dowry, detail of not a day,

month or year has been mentioned. Statement of complainant and witnesses appear to be similar without any specific allegation against any of applicants specifically in regard to relatives of applicant no.1 i.e. applicants no. 2 to 8.

15. Even nature of demand of dowry was not specified by the complainant in her statement and lacunae was filled by statements of other witnesses recorded at belated stage that there was a demand of Rs. 5,00,000/- and a Bolero Car, though there was a reference in the FIR.

16. As referred above, this Court has to scrutinize whether on basis of above referred submissions, allegations of demand of dowry, cruelty, intimidation and intentional insult are made out or not and for that this Court takes note of above referred observations made in Kahkashan Kausar (supra) that there is an increase tendency of implicating relatives of husband in matrimonial disputes and as referred above, allegations against applicants no. 2 to 8 (i.e. father, mother, unmarried sisters, brothers and their wives) of applicant no.1 are general and omnibus without any specific allegation, as such, ingredients of offences are absolutely not made out against applicant no.2 to 8. A reference is made to statement recorded during investigation that all applicants were not happy with dowry given at the time of marriage and soon after marriage, they repeatedly demanded dowry of Rs.5 lakh and Bolero and used to assault her also, however, no reference is given about any day, month or year of such act as marriage period was of 5 years, therefore, it could be considered to be a “general and omnibus allegations” as well as the allegations of assault are

not supported by any medical evidence, though allegations are of also repeated assault. General statement, without any reference to nature of cruelty would not cover offence under Section 498A I.P.C. mechanically.

17. So far as applicant no.1 is concerned, since allegations made by complainant/opposite party no.2 and other witnesses have some substance as they are specific on issue that he forcibly left complainant at her parental home and extended threat and at this stage, it could be said that they are general and omnibus against him, therefore, no case is made out for quashing charge sheet and summoning order against applicant no.1.

18. Court also takes note that FIR was lodged only after a divorce petition was filed by applicant no.1, still considering above referred statements recorded during investigation, Court is of the opinion that it is not a fit case to quash proceedings or charge sheet against applicant no.1.

19. It would be apposite to refer few paragraphs of **Achin Gupta vs. State of Haryana, 2024 0 INSC 369** wherein Supreme Court has referred that in matrimonial dispute, complaints are made mechanically :-

“32. Many times, the parents including the close relatives of the wife make a mountain out of a mole. Instead of salvaging the situation and making all possible endeavours to save the marriage, their action either due to ignorance or on account of sheer hatred towards the husband and his family members, brings about complete destruction of marriage on trivial issues. The first thing that comes in the mind of the wife, her parents and her relatives is the Police, as if the Police is

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

between spouses, which happen in day-to-day married life, may also not amount to cruelty."

20. The Court also takes note of few paragraphs of **Mohammad Wajid and another vs. State of U.P. and others, 2023 INSC 683** in regard to offences under Sections 504 and 506 IPC which are as follows :-

"23. 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."

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."

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.”

24. 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.

25. 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 self control 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.

26. 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 or 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)

27. 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.”

21. As referred above, statements recorded during investigation are short of above referred requirements for Sections 504 and 506 IPC at least against applicant Nos.2 to 8, though it may have substance against applicant No.1 as there is a specific narration qua to him in regard to offence of intimidation. There is nothing about nature of abusive language or there was any element of being likely to incite the person insulted to commit breach of peace at least qua to applicants no. 2 to 8. Accordingly, in view of A.M. Mohan (supra), it is a fit case to exercise inherent powers under Section 482 Cr.P.C. as ingredients of referred offences are not made out against applicants no. 2 to 8.

22. Accordingly, charge sheet dated 23.03.2023 and entire proceedings in Criminal Case No. 130/2023 under Sections 498-A, 323, 504, 506 IPC and Section 3/4 of D.P. Act, arising out of Case Crime No. 45/2023, Police Station- Mundali, District- Meerut, pending before Judicial Magistrate-I, Meerut are hereby quashed qua to applicants nos. 2 to 8(Smt. Rasheeda, Rashid, Kari Sajid, Khadija, Maulana, Muhammadi, Ummehani). However, trial will proceed further against applicant no.1 only for above referred offences and till date if he has not surrendered, it is directed that he will surrender before trial

Court within 4 weeks from today and in case any application for bail is filed, the same shall be considered expeditiously in accordance with law and taking note of judgment passed by Supreme Court in **Satender Kumar Antil vs. CBI, (2021) 10 SCC 773.**

23. Application is partly **allowed.**

24. Registrar (Compliance) to take steps.

Order Date :- July 1st, 2024

N. Sinha

[Saurabh Shyam Shamsbery, J.]