

Neutral Citation No. - 2024:AHC:161342

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

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A.F.R.

**Judgement Reserved on 25.09.2024**

**Judgement Delivered on 03.10.2024**

**Court No. - 79**

**Case :- APPLICATION U/S 482 No. - 27067 of 2019**

**Applicant :-** 

**Opposite Party :-** State of U.P. and Another

**Counsel for Applicant :-** Pradeep Kumar Mishra

**Counsel for Opposite Party :-** Bharat Singh Pal,G.A.,Prabhat Tripathi

**Hon'ble Anish Kumar Gupta,J.**

1. Heard Shri Vinay Saran, learned Senior Advocate assisted by Shri Pradeep Kumar Mishra, learned counsel for the applicants, Shri Bharat Singh Pal, learned counsel for the opposite party no. 2 and Shri Pankaj Srivastava, learned A.G.A. for the State respondents.

2. The instant application has been filed seeking quashing of the cognizance/ summoning order dated 30.05.2019 as well as the charge-sheet dated 20.04.2019 and entire proceedings of Case No. 395 of 2019 arising out of the Case Crime No. 83 of 2018 under Sections 498, 323, 504, 506, 509 I.P.C. and 3/4 D.P. Act, Police Station- Mahila Thana, District- Gautam Buddha Nagar, pending in the court of Civil Judge (Senior Division)/Fast Track Court, Gautam Buddh Nagar.

3. The brief facts of the case are that the opposite party no. 2 is the father-in-law of the applicant no. 1 herein. The daughter of the opposite party No. 2, namely Meesha Shukla/opposite party no.3, was married with the

applicant no. 1/Pranjal Shukla, on 07.12.2015, as per Hindu rites and customs. It is alleged in the F.I.R. that in the said marriage the opposite party no. 2 has spent a huge amount of money. After the marriage the in-laws of the daughter of the opposite party no 2, namely Madhu Sharma and Punya Sheel Sharma, were not satisfied with the dowry and gifts given during the marriage. However, it has been categorically stated in the F.I.R. that prior to marriage there was no demand of money. However, when the marriage was settled, in the name of various customs, they demanded money. It is further stated in the F.I.R. that after the marriage the husband and the in-laws i.e., the applicants herein started making comments against her and said that her father has selected an IIT qualified groom, then, dowry ought to have been given. When the opposite party no. 3 told that her father is not having the capacity to meet all the demands, then, they started abusing and assaulting the daughter of the opposite party no. 2. His daughter was compelled too much that he had to give the articles worth Rs. 15 to 20 lakh and cash as well. Even after such payments and giving of the articles the applicant no. 1 was not satisfied and he used to misbehave and assault his daughter. When it was informed by the opposite party no.3 to her in-laws they also did not pay any attention to the same and told that money has to be brought in. It is also stated that the applicant no.1 used to drink and also used to watch porn films and used to insist for unnatural sex with the opposite party no.3 and used to be nude before her and also used to masturbate. When the daughter of the opposite party no. 2 used to object to the same, he did not pay any heed to her objections. The applicant no.1, under the influence of alcohol and drugs, tried to kill his daughter and strangled her, when it was objected by the daughter of the opposite party no. 2, then, the applicant no.1 left the daughter of the opposite party no. 2 with her in-laws and went alone Singapore. When the opposite party no. 3 insisted to go to Singapore, then, the in-laws told her that unless all their demands are fulfilled, she will stay there at Mumbai only. When the opposite party no.2, did not fulfil their demands they have sent his daughter at Noida with the opposite party no. 2 and her husband started living at Singapore. When the daughter of the

opposite party no.2 insisted to her husband to go to Singapore, he told her to bring money from her parents.

4. After staying for about eight to nine months at Noida the daughter of the opposite party no. 2 went to Singapore on 27.07.2017, where she found the applicant no. 1 consuming the drugs and the alcohol. It is further stated in the F.I.R. that for about a year the applicant no. 1 was torturing his daughter at Singapore and due to his activities his daughter had to seek employment and entire salary was spent by her to fulfil the demands of the applicant no. 1. When the opposite party no. 3 told all those incidents to the opposite party no. 2, then, again for the second time the opposite party no.2 went to Singapore to convince the applicant no. 1 but both times he behaved inhumanly with them and abused and threatened to kill his daughter. On the basis of such written report, an F.I.R. being Case Crime No. 83 of 2018 was registered on 23.7.2018. The matter was investigated by the police and after registration of the F.I.R. the intimation was also given to the Ministry of Foreign Affairs with regard to the criminal case pending against the applicant no. 1.

5. After registration of the F.I.R. the applicants have filed a *Criminal Misc. Writ Petition No. 23151 of 2018 (Pranjal Shukla and 2 Others vs. State of U.P. and 3 Others)* before this Court and matter was referred to the Mediation Centre Vide order dated 24.08.2018 and interim protection was granted to the applicants. Subsequent thereto, the applicants have cooperated with investigation and ultimately after conclusion of the investigation the charge-sheet was filed against the applicants herein. The mediation between the parties failed on 26.10.2018, due to non-cooperation of the opposite parties no. 2 and 3. However, after failure of the mediation the opposite party no. 2 through his counsel sent a notice to the Ministry of Foreign Affairs, Singapore requesting for freezing/hold of the passport of the applicant no. 1. Similarly, the opposite party no. 2 also sent the letters to the CEO of the company where the applicant no. 1 was employed, requesting for his return to India. In the meantime, the aforesaid Writ Petition No.

23151 of 2018 was disposed of vide order dated 30.01.2019 and investigation was directed to continue.

6. Pursuant to the aforesaid ordered, the charge-sheet was filed on 20.04.2019. The learned Magistrate, has taken cognizance of the charge-sheet filed against the applicants herein. Vide order dated 30.05.2019, without any application of mind in a mechanical manner, by a cryptic order against which the instant application has been filed by the applicants. While entertaining the instant application, the matter was again referred to the Mediation Centre vide order dated 15.07.2019 and as per the report of the Mediation Centre dated 18.03.2021, the mediation between the parties could not succeed. Thereupon, the pleadings were exchanged and the matter is finally heard.

7. Learned counsel for the applicants submits that in the entire F.I.R. as well as in the statements of the opposite party no. 2, there are only general and vague allegations with regard to the demand of dowry etc., no specific incident as to who actually and when demanded such dowry has been made out either in the F.I.R. or in the statement of witnesses. Admittedly, the applicant no. 1 went to Singapore in connection of his employment and after the applicant no.1 has gone to Singapore, the opposite party no. 3 came back to her parents' home and stayed there for about eight-nine months and ultimately on 27.07.2017, the opposite party no. 3 was also taken to Singapore by the applicant no. 1. From the allegations as made in the instant F.I.R. as well as the statements of the opposite party no. 3, the allegations are with regard to their matrimonial obligations and physical relationship and the unnatural sexual activities by the applicant no. 1, which was objected by the opposite party no. 3. The assaults which are alleged in the statement by the opposite party no.3, are with regard to non-fulfilment of the sexual urges of the applicant no.1 by the opposite party no.3 and not for any cruelty meted out for demand of dowry. However, not a single date of any actual incident has been made out in the F.I.R. as well as in the statement of witnesses and only general and vague allegations have been made. Despite the specific query made by the Investigation Officer, she has not been able to

point out any specific place of incident, which could be verified by the Investigation Agency. Therefore, learned Senior Counsel relying upon the judgements of the Apex Court in ***Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741, Achin Gupta vs. State of Haryana and Another : 2024 SCC Online SC 759*** and ***Kahkashan Kausar Vs. State of Bihar, (2022) 6 SCC 599***, submits that for want of any specific allegation, merely on general and vague allegations, the prosecution of the applicants herein is unwanted and is just a malicious prosecution. Further, learned Senior Counsel relying upon the judgement of the Apex Court in ***Mohammad Wajid v. State of U.P., 2023 AIR Supreme Court 3784*** submits that no offence under Sections 504, 506, 509 I.P.C., are made out against the applicants, therefore, learned Senior Counsel submits that none of the offences as alleged are made out from the entire material available on record. Thus, the instant proceeding is nothing but a malicious prosecution on the part of the opposite parties no. 2 and 3 against the applicants herein with ulterior motive. Therefore, learned counsel for the applicants seeks quashing of the entire proceedings of the instant case.

**8.** *Per Contra*, learned counsel for the opposite party nos. 2 & 3 submits that from the allegations as made, there are clear and categorical allegations with regard to the demand of dowry and torture for demand of dowry. Therefore, a *prima facie* case is made out against the applicants herein and the allegations have been found established during the investigation, on the basis of which the charge-sheet has been filed by the applicants herein. Further, the trial court having found a *prima facie* case against the applicants herein has taken cognizance in the matter and has summoned the applicants herein, therefore, there is no illegality the instant proceedings initiated against the applicant and also in the charge-sheet as well as in the summoning order passed by the learned trial court.

**9.** Learned A.G.A. supports the submissions made by learned counsel for the opposite party nos. 2 & 3.

**10.** Having heard the submissions made by learned counsels for the parties, this Court has carefully gone through the record of the case. From the record

of the case, it is apparent that in the entire F.I.R. as well as in the statements of witnesses recorded during the investigation no specific allegation has been made out against the applicants herein. Only general and vague allegations have been made out with regard to the demand and torture for demand of dowry. However, from the close scrutiny of the F.I.R. as well as the statement of the victim, the torture or any assault, if any, is meted out not for any demand of dowry but on refusal of the opposite party no. 3 to fulfil the sexual urges of the applicant no. 1. So far as the applicant nos. 2 and 3 are concerned, there is not a single allegation against them. Even in the F.I.R., it has been categorically stated that prior to marriage there was no demand of dowry by the applicants, at any stage. From the close scrutiny of the F.I.R. as well as statement of the witnesses it is apparent that the dispute is with regard to the sexual incompatibility of the parties for which the dispute was there between the parties and due to the said dispute the instant F.I.R. has been lodged by the opposite party no.2, making out the false and concocted allegations with regard to the demand of dowry, torture and harassment. If man would not demand sexual favour from his own wife and vice-versa, where they will go to satisfy their physical sexual urges in a morally civilized society. In any of the event, no injury has ever been sustained by the opposite party no.3. Thus, from the facts of the case, in the considered opinion of this Court, by no stretch of imagination it can be said to be an offence of cruelty in terms of section 498-A I.P.C. There is no averment with regard to any specific demand of dowry made by any specific person except the general and vague allegations.

**11.** Before proceeding further it would be relevant to take note of the provisions of Sections 498-A, 506 I.P.C. as well as 3/4 of the D.P. Act, for which the applicants have been charged.

**Sections 498A, 506 I.P.C.**

***Section 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 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.]

**"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."

**Sections 3 and 4 of the D.P. Act.**

**"3. Penalty for giving or taking dowry.—**

(1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable [with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more]:

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than [five years].

[(2)Nothing in sub-section (1) shall apply to, or in relation to,—

(a) presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act;

(b)presents which are given at the time of a marriage to the bridegroom (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act:

Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given].

**4. Penalty for demanding dowry.--**If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months."



12. In case of *Geeta Mehrotra (supra)*, the Apex Court has observed as under:-

"19. Coming to the facts of this case, when the contents of the FIR is perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names who have been included in the FIR but **mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.**

20. 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*, (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:

"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.

21. In yet another case reported in (2003) 4 SCC 675 : AIR 2003 SC 1386 in the matter of *B.S. Joshi v. State of Haryana* it was observed that there is no doubt that the object of introducing Chapter XXA containing Section 498A in the Penal Code, 1860 was to prevent the torture to a woman by her husband or by relatives of her husband. **Section 498A was added with a view to punish the husband and his relatives who harass or torture the wife to coerce her relatives to satisfy unlawful demands of dowry. But if the proceedings are initiated by the wife under Section 498A against the husband and his relatives and subsequently she has settled her disputes with her husband and his relatives and the wife and husband agreed for mutual divorce, refusal to exercise inherent powers by the High Court would not be proper as it would prevent woman from settling earlier.** Thus for the purpose of securing the ends of justice quashing of FIR becomes necessary, Section 320 Cr. P.C. would not be a bar to the exercise of power of quashing. It would however be a different matter depending upon the facts



and circumstances of each case whether to exercise or not to exercise such a power."

(Emphasis supplied)

13. In **Kahkashan Kausar (supra)**, the Apex Court has observed as under:

"10. Having perused the relevant facts and contentions made by the appellants and respondents, in our considered opinion, the foremost issue which requires determination in the instant case is **whether allegations made against the appellant in-laws are in the nature of general omnibus allegations and therefore liable to be quashed?**

15. In **Geeta Mehrotra v. State of U.P.** [Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741 : (2013) 1 SCC (Civ) 212 : (2013) 1 SCC (Cri) 120] it was observed : (SCC p. 749, para 21)

"21. It would be relevant at this stage to take note of an apt observation of this Court recorded in **G.V. Rao v. L.H.V. Prasad** [G.V. Rao v. L.H.V. Prasad, (2000) 3 SCC 693 : 2000 SCC (Cri) 733] 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 : (SCC p. 698, para 12)

'12. ... There has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, the 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 commission of 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 other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their 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.

16. Recently, in **K. Subba Rao v. State of Telangana** [K. Subba Rao v. State of Telangana, (2018) 14 SCC 452 : (2019) 1 SCC (Cri) 605] , it was also observed that : (SCC p. 454, para 6)

"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 abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-AIPC 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 1-4-2019, 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.

21. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the appellant-accused, **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)

14. In *Achin Gupta (supra)*, the Apex Court has observed as under:

"25. **If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it is nothing but abuse of the process of the court. The court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, prima facie, whether there is any grain of truth in the allegations or whether they are made only with the sole object of involving certain individuals in a criminal charge, more particularly when a prosecution arises from a matrimonial dispute.**"

(Emphasis supplied)

15. Therefore, in the considered opinion of this Court the instant F.I.R. is nothing but a concocted story of demand of dowry by making general and vague allegations against the applicants herein. Therefore, in view of the judgement of Apex Court in *Geeta Mehrotra (supra)*, *Achin Gupta (supra)*, as well as *Kahkashan Kausar (supra)*, the instant application is **allowed** and the cognizance/summoning order dated

30.05.2019 as well as the charge-sheet dated 20.04.2019 and entire proceedings of Case No. 395 of 2019 arising out of the Case Crime No. 83 of 2018 under Sections 498, 323, 504, 506, 509 I.P.C. and 3/4 D.P. Act, Police Station- Mahila Thana, District- Gautam Buddha Nagar, are hereby *quashed*.

**Order Date :-** 03.10.2024

Shubham Arya

**(Anish Kumar Gupta, J.)**