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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE MANINDER S. BHATTI
ON THE 29th OF JANUARY, 2024
MISC. CRIMINAL CASE No. 59501 of 2021**

BETWEEN:-

(BY SHRI ABHIGYA VERMA - ADVOCATE)

.....APPLICANT

AND

1. **THE STATE OF MADHYA PRADESH THR. P.S.
SULTANPUR DISTT. RAISEN M.P (MADHYA
PRADESH)**

.....RESPONDENTS

(STATE BY SHRI C.S. PARMAR - GOVT. ADVOCATE)

.....
*This application coming on for admission this day, the court passed the
following:*

ORDER

This is a petition under Section 482 of the Code of Criminal Procedure

seeking quashment of First Information Report bearing Crime No. 186/2020, Police Station Sultanpur, district Raisen, Charge Sheet and all further proceedings in connection thereto.

2. It is contended by the counsel that on 24.8.2020, respondent No. 2/complainant lodged an F.I.R with Police Station, Sultanpur District Raisen. In the F.I.R it was stated by the respondent/complainant that her marriage was solemnized on 12.5.2019 with one Nirlesh Khambra, who was working with Muthoot Gold Bank, Near Prabhat Square, Bhopal. At the time of marriage, father of the complainant with his best of capability gave dowry and gave motor-cycle, gold neck-less, earrings, bangles etc. The complainant, as per F.I.R stayed with her in-laws for a period of two months. Later on as the mother-in-law of the complainant did not allow complainant to keep her belongings at the place of in-laws, the complainant started residing with her husband Nirlesh Khambra at Rachna Nagar. The husband of the complainant used to manhandle and abuse her and intermittently her mother-in-law, brother-in-law, sister-in-law and husband of the sister-in-law used to come to the place where the complainant was residing and they demanded dowry of Rs. five lakhs. As a result of F.I.R the proceedings were initiated against the applicants and a charge-sheet in the matter has been filed before the competent Court.

3. It is contended by the counsel that the present case is an example of gross abuse of the process. It is contended by the counsel that the present petitioners have been falsely implicated merely in view of the fact that they are relatives of husband of the complainant. It is contended by the counsel that petitioner No. 1 is mother-in-law, petitioner No. 2 is sister-in-law and petitioner No. 3 is brother-in-law of the complainant. It is contended by the counsel that if the allegations levelled in the F.I.R as well as the statement recorded under

Section 161 Cr.P.C are subjected to penetrative scrutiny, the same would reveal that no specific allegations against the present petitioners have been levelled. It is also contended by the counsel that the present petitioners are not residing with the complainant yet the F.I.R against the petitioners have been lodged. It is also contended by the counsel that allegation against the present petitioners are vague and not specific. Therefore, while placing reliance on the decision of the Apex Court in **Preeti Gupta and others v. State of Jharkhand and others** (Cr.A No. 1512/2010 (Arising out of SLP (CrI) No. 4684 of 2009) decided on 13.8.2010, **Abhishek v. State of Madhya Pradesh** [2023 LiveLaw(SC) 731] and also the order dated 11.3.2022 passed by this Court at Gwalior Bench in **Ramkumar Sharma and others v. State of M.P. and others** (MCRC 16298 of 2021) it is contended by the counsel for the petitioner that the F.I.R bearing Crime No. 186/2020, Charge Sheet and all proceedings of RCT No. 395/2020 in the Court of Judicial Magistrate First Class Gauharganj, district Raisen deserve to be quashed.

4. Per contra, counsel for State submits that the present petition filed by the petitioner deserves to be dismissed. There are allegations against the present petitioners. The allegations are to be tested on the basis of evidence which is to be adduced by the prosecution and at this stage no interference is warranted. It is further contended by the counsel for State that the present petitioners have been named in the F.I.R, therefore, the present petition is liable to be dismissed.

5. Heard submissions and perused the record.

6. In the present case, this Court issued notices to the respondent No. 2. The report of the office reflects that the notices were served upon the

respondent No. 2 yet respondent No. 2 has not appeared before this Court nor any one has filed any Vakalatnama on behalf of respondent No. 2. It is also undisputed that prosecution was initially launched against the husband of petitioner No. 2 Rahul Gaur who has also expired after lodging of F.I.R. A perusal of F.I.R discloses the allegation against the present petitioners that they used to visit the complainant who was residing at Rachna Nagar and used to demand Rs.5 lakhs in order to buy a bigger house. F.I.R. discloses that complainant was not residing with the present petitioners and was residing at Rachna Nagar with her husband. According to complainant petitioner No. 3 also used to record conversation and used to humiliate her. It is further mentioned in the F.I.R that the petitioner No. 2 was acting on the instructions of petitioner No. 1. After registration of F.I.R the statement of the complainant and her parents were also recorded. The statement are there on record. Perusal of all the statement reflects that identical allegations have been levelled by all the witnesses. The allegations are not specific. There are no particulars like specific date and time when the complaint was subjected to the demand of dowry. As per complainant own showing the present petitioners were not residing with the present complainant but the complainant made an effort to demonstrate that the present petitioners used to visit her at place. The said particulars have not been disclosed by the complainant in the F.I.R. or there is any disclosure of such particulars in the entire statement of the witnesses.

7. The present petitioners are close relatives of husband of the complainant. The implication of relatives was taken note of by Apex Court in the case of **Preeti Gupta and another v. State of Jharkhand and another** [(2010) 7 SCC 667], in which the Apex Court has held as under:

"32. It is a matter of common experience that most of

these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

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

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

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into

consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinised with great care and circumspection.

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

Again in **Geeta Mehrotra and another v. State of Uttar Pradesh and another** [(2012) 10 SCC 741] the Apex Court has held as under:-

"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 [(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 disputes 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."

The view taken by the Judges in that matter was that the courts would not encourage such disputes.

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25. However, we deem it appropriate to add by way of caution that we may not be misunderstood so as to infer that even if there are allegations of overt act indicating the complicity of the members of the family named in the FIR in a given case, cognizance would be unjustified but what we wish to emphasise by highlighting is that, if the FIR as it stands does not disclose specific allegation against the accused more so against the co-accused specially in a matter arising out of matrimonial bickering, it would be clear abuse of the legal and judicial process to mechanically send the named accused in the FIR to undergo the trial unless of course the FIR discloses specific allegations which would persuade the court to take cognizance of the offence alleged against the relatives of the main accused who are prima facie not found to have indulged in physical and mental torture of the complainant wife. It is the well-settled principle laid down in cases too numerous to mention, that if the FIR did not disclose the commission of an offence, the court would be justified in quashing the proceedings preventing the abuse of process of law. Simultaneously, the courts are expected to adopt a cautious approach in matters of quashing, especially in cases of matrimonial disputes whether the

FIR in fact discloses commission of an offence by the relatives of the principal accused or the FIR prima facie discloses a case of overimplication by involving the entire family of the accused at the instance of the complainant, who is out to settle her scores arising out of the teething problem or skirmish of domestic bickering while settling down in her new matrimonial surrounding."

8. The Apex Court later on in **Kahakashan Kausar alias Sonam and others v. State of Bihar and others** [(2022) 6SCC 599] in paragraphs 16 and 18 has held as under:

"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." सत्यमेव जयते

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."

9. In the case of *Abhishek* (supra) the Apex Court in paragraph 13 and 16 has held as under:

*13. Instances of a husband's family members filing a petition to quash criminal proceedings launched against them by his wife in the midst of matrimonial disputes are neither a rarity nor of recent origin. Precedents aplenty abound on this score. We may now take note of some decisions of particular relevance. Recently, in *Kahkashan Kausar alias Sonam and others vs. State of Bihar and others [(2022) 6 SCC 599]*, this Court had occasion to deal with a similar situation where the High Court had refused to quash a FIR registered for various offences, including Section 498A IPC. Noting that the foremost issue that required determination was whether allegations made against the in-laws were general omnibus allegations which would be liable to be quashed, this Court referred to earlier decisions wherein concern was expressed over the misuse of Section 498A IPC and the increased tendency to implicate relatives of the husband in matrimonial disputes. This Court observed that false implications by way of general omnibus allegations made in the course of matrimonial disputes, if left unchecked, would result in misuse of the process of law. On the facts of that case, it was found that no specific allegations were made against the in-laws by the wife and it was held that allowing their prosecution in the absence of clear allegations against the in-laws would result in an abuse of the process of law. It was also noted that a criminal trial, leading to an eventual acquittal, would inflict severe scars upon the accused and such an exercise*

ought to be discouraged.

16. Of more recent origin is the decision of this Court in Mahmood Ali and others vs. State of U.P. and others (Criminal Appeal No. 2341 of 2023, decided on 08.08.2023) on the legal principles applicable apropos Section 482 Cr.P.C. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 Cr.P.C. or the 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 of wreaking vengeance, then in such circumstances, the High Court owes a duty to look into the FIR with care and a little more closely. It was further observed that it will not be 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 as, in frivolous or vexatious proceedings, the Court owes a duty to look into 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, to try and read between the lines.

8. Therefore, if the case in hand is subjected to deep scrutiny it would reveal that omnibus and bald allegations have been levelled by the complainant in First Information Report as well as statements recorded under Section 161 Cr.P.C. by the witnesses against the present petitioners. Undisputedly, the petitioners were not residing with the complainant and she was residing separately at Rachna nagar, therefore, in such an eventuality the complainant ought to have made specific allegations against the petitioners. As there are no specific allegations thus in view of the law enunciated by the Apex Court in the aforementioned decisions, this Court is of the considered view that the

prosecution launched against the petitioners is ill-founded and based on vague and equivocal allegations.

9. Resultantly, this petition stands allowed. F.I.R bearing Crime No. 186/2020, Charge Sheet and all proceedings of RCT No. 395/2020 in the Court of Judicial Magistrate First Class Gauharganj, district Raisen stand quashed. They are discharged of the charges framed against them. Bail bond if executed by the petitioners also stand discharged.

vivek

(MANINDER S. BHATTI)
JUDGE

