

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC. APPLICATION (FOR QUASHING & SET
ASIDE FIR/ORDER) NO. 6877 of 2022****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE P. M. RAVAL**
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Approved for Reporting	Yes	No
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LILAWATIBEN W/O MURLIDHAR SONI & ORS.**Versus****STATE OF GUJARAT & ANR.**
=====**Appearance:****MS KIRAN VARMA for MR BHUNESH C RUPERA(3896) for the
Applicant(s) No. 1,2,3,4****MR KAMLESH KACHHAVAH(3013) for the Respondent(s) No. 2****MR ROHAN SHAH, APP for the Respondent(s) No. 1**
=====**CORAM:HONOURABLE MR.JUSTICE P. M. RAVAL****Date : 28/07/2026****ORAL JUDGMENT**

1. This application under Section 482 of the Criminal Procedure Code, 1973 (the Code) is filed by the applicants praying to quash and set aside the FIR being C.R. No. 11191008201178 dated 25.10.2020, registered with Chandkheda Police Station, District:

Ahmedabad City for the offences punishable under Sections 498A, 323, 294(b) and 114 of the Indian Penal Code, 1860 (IPC) and Sections 3 and 7 of the Dowry Prohibition Act, for the offence which took place between 09.12.2013 to 25.10.2020, which has culminated into Criminal Case No. 3443 of 2021, pending before the competent Court at Gandhinagar.

2. When the matter is taken up, none is present on behalf of the respondent No. 2 - *de facto* complainant. The matter is of 2022 and trial Court proceedings are stayed since 28.04.2022. Hence, the Court proceeded with the matter, on merits.

3. The allegations *qua* the applicants are to the effect that the applicant Nos. 1 and 2, who are the mother-in-law and the father-in-law, and the applicant Nos. 3 and 4, who are the sisters – in-law (*Nanand*), of the respondent No. 2 used to taunt her on the count that she has brought a very meager dowry and thereby, used to physically and mentally torture her. Another allegation is that the applicant No. 1 – mother-in-law also beat the respondent No. 2, whereas, the applicant No. 2 abetted her by giving filthy abuses. It is also alleged that the applicant Nos. 3 and 4, who are married sisters-in-law of the respondent No. 2 used to instigate the applicant Nos. 1 and 2 against the respondent No. 2 for bringing meagre dowry. Thus, the allegations against the applicants are that they beat, used abusive language, and physically and mentally tortured the *de facto* complainant. On the said facts, FIR

in question came to be lodged against the applicants.

4. Heard, learned advocate for the applicants and the learned Additional Public Prosecutor for the respondent – State.

4.1 The learned advocate for the applicants would submit that the applicant Nos. 1 and 2 are senior citizens, whereas, the applicant Nos. 3 and 4 are the sisters-in-law (*Nanand*) of the respondent No. 2 who were married in the year 2013 and 2007, respectively, and thus, on the date of filing of the FIR they were residing separately at Ahmedabad in their respective matrimonial homes with their in-laws and thus, the present FIR is nothing but a pressure tactic and with a view to see that the entire family is implicated in a false crime.

4.2 It is further submitted that the applicants are falsely implicated in the offence in question and the allegations made against them are totally vague and false without there being anything on record to suggest specific role and/or overt act committed by them.

4.3 The learned advocate for the applicants would submit that there is an inordinate delay in lodging the FIR inasmuch as the period shown in the FIR is between 2013 and 2020, for which, no plausible explanation is forthcoming on record.

4.4 It is further submitted that so far as applicant Nos. 3 and 4 – sisters-in-law of the respondent No. 2 are concerned, they being residing at their respective matrimonial homes, have nothing to do with the offence in question so also with the day-to-day affairs of the applicant Nos. 1 and 2 or the husband of the *de facto* complainant inasmuch as, they rarely and occasionally visit their paternal home at village: Didwana, District: Nagaur, Rajasthan and thus, the allegations against them are completely false and fictitious.

4.5 It is further submitted that prior to filing of the present FIR, the respondent No. 2 had preferred an application before the concerned police station, however, she did not lodge any substantive FIR and thus, she is in habit of making such false complaints inasmuch as, while the applicant Nos. 3 and 4 are the married daughters, the applicant Nos. 1 and 2, who are the parents-in-law, were also residing separately from their son – husband of the *de facto* complainant, which fact can be substantiated from a Public Notice dated 27.03.2020, a copy of which is produced at Annexure 'C' to this application, wherein, it is specifically informed that his (applicant No. 2's) son, the husband of the respondent No. 2, has a habit of drinking; is doing nothing and threatening the applicant Nos. 1 and 2 and also, sold off their belongings and that, they disown their son declaring that he (son) has no rights over their property and that, the applicant No. 2 is not responsible for the acts of his son. The learned

advocate for the applicants would further submit that the applicant No. 2 had also filed an application before the Didwana Police Station against his son on the aforesaid allegations and that, he is residing separately from them for last 3-4 years and the SDM, Didwana was also asked to take actions under Section 107 and 116(3) of the Code against him.

4.6 Making above submissions, it is submitted that present applicants have no role to play in the alleged offence and the FIR against the applicants having been filed with *mala fide*, it is requested to be quashed.

5. As against that, the learned Additional Public Prosecutor for the respondent – State would submit that Charge-sheet *qua* in the case has already been filed and *prima facie* case is made out and hence, present application seeking quashment of the FIR in question and the criminal case pursuant thereto, may not be entertained at this stage.

5.1 It is submitted by the learned Additional Public Prosecutor that surfing through the evidence collected during the investigation, would amount to a mini trial and this Court, while considering an application for quashing under Section 482 of the Code, may not conduct a mini trial.

5.2 Making such submissions, it is urged by the learned

Additional Public Prosecutor that this application may not be entertained and it is requested to be rejected.

6. Heard, the learned advocates for the parties present and perused the papers available on record.

6.1 At the outset, it would be apt to refer to a decision in case of *State of Haryana v. Bhajan Lal*, AIR 1992 SC 604, wherein, the Hon'ble Apex Court crystallized seven distinct, illustrative categories of cases where judicial intervention under Section 482 of the Code or Article 226 of the Constitution is necessitated to secure the ends of justice and clip any abuse of the process of Court. The relevant portion of Paragraph 102 of the said judgment is extracted below:

“(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 F.I.R. and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under S.156(1) of the Code except under an order of a Magistrate within the purview of S.155(2) of the code.

(3) Where, the uncontroverted allegations made in the F.I.R. or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out the case against the accused.

(4) *Where, the allegations in the F.I.R. 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 S.155(2) of the Code.*

(5) *Whether, the allegations made in the F.I.R. 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/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

(7) *Where a criminal proceeding is manifestly attended with malafide 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."*

6.2 The applicants have preferred this application under Section 482 of the Code, seeking the quashing of the First Information Report (FIR) and all consequential proceeding in pursuance thereto. The allegations against the present applicants are beating, abusing and taunting with regard to meager dowry as well as general allegations and to abet the offence.

6.3 Before adverting to the case on hand, it would be appropriate to refer to a decision of the Apex Court in ***Preeti Gupta v. State of Jharkhand, 2010 (0) AIJEL-SC 48656***, wherein the Court held:

"28. It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the Courts in our country including this Court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

29. The Courts are receiving a large number of cases emanating from Section 498-A of the Indian Penal Code which reads as under:-

["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."]

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30. It is a matter of common experience that most of these complaints under Sec. 498-A IPC are led 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 led with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

31. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated

versions of small incidents : should not be reflected in the criminal complaints. Majority of the complaints are led 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 Sec. 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 fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

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

33. *The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The Courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection. 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 led by the complainant if the husband or the husband's relations : had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.*

34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.

35. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the Courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law & Justice to take appropriate steps in the larger interest of the society."

6.4 Further, in the decision in *Kahkashan Kausar @ Sonam v. State of Bihar*, 2022 (0) AIJEL-SC 68351, the Apex Court observed that:

"12. Before we delve into greater detail on the nature and content of allegations made, it becomes pertinent to mention that incorporation of section 498A of IPC was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid state intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than

ever. This has resulted in an increased tendency to employ provisions such as 498A IPC as instruments to settle personal scores against the husband and his relatives.

13. This Court in its judgment in *Rajesh Sharma and Ors. Vs. State of U.P. & Anr.*, (2018) 10 SCC 472 has observed:-

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

14. Previously, in the landmark judgment of this court in *Arnesh Kumar Vs. State of Bihar and Anr.*, (2014) 8 SCC 273 it was also observed:-

"4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A IPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the

provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bed-ridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested."

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16. 16. In *Geeta Mehrotra & Anr. Vs. State of UP & Anr.*, (2012) 10 SCC 741 it was observed:-

"21. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of G.V. Rao vs. L.H.V. Prasad & Ors. reported in (2000) 3 SCC 693 wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that: "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."

17. Recently, in *K. Subba Rao v. The State of Telangana*, (2018) 14 SCC 452 it was also observed that:-

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

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.

6.5 Tested on the various pronouncements of the Apex Court as above, if the case on hand is adverted, following aspects emerge:

a) *the allegations against the applicants are vague and omnibus;*

b) *the ingredients of the offences alleged are not satisfied qua the applicants inasmuch as the complainant alleged that all accused harassed her physically and mentally on meagre dowry and beat, and abused her, but 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 so far as qua alleged offence, more particularly, offence punishable under Section 498A of the IPC. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence.

c) similar allegations of harassment and demand for dowry made in the FIR, however, without there being any specific instance;

d) it is trite that small and scattered incidents without any immediate proximity do not constitute offence of cruelty;

e) the contents of the FIR itself, does not repose confidence so far as allegations qua present applicants are concerned inasmuch as the applicant Nos. 1 and 2 are the parents-in-law of the de facto complainant whereas, the applicant Nos. 3 and 4 are the sisters-in-law. All the applicants were residing separately from the husband of the de facto complainant as while applicant Nos. 3 and 4 indisputably got married in the year 2007 and 2013, respectively, the Public Notice, referred to herein above, shows that the applicant Nos. 1 and 2 were also stayed separately and that, they had disowned their son. Not only that, the applicant No. 2 had also filed an application against his son, a copy of which is on record;

f) no ingredients of offence alleged appear to have been satisfied in the facts and circumstances of the case so far as applicants are concerned;

g) in K. Subba Rao v. The State of Telangana, (2018) 14 SCC 452, it is held that 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."

6.6 In view of the above, taking into consideration the facts and circumstances of the case *vis-a-vis* the aforesaid decisions of the Apex Court, this Court is of the considered opinion that the present case squarely falls within the parameters (1), (3), (5) and (7) as enshrined in the case of ***Bhajan Lal (supra)*** as the proceedings against the present applicants appear to be manifestly frivolous and instituted with the ulterior motive for wreaking vengeance and accordingly, the Court is inclined to exercise powers vested under Section 482 of the Code and quash the FIR *qua* the present applicants (Nos. 2 to 5).

7. *In fine*, this application succeeds and is allowed, accordingly. FIR being C.R. No. 11191008201178 dated 25.10.2020, registered with Chandkheda Police Station, District: Ahmedabad City for the offences punishable under Sections 498A, 323, 294(b) and 114 of

the Indian Penal Code, 1860 and Sections 3 and 7 of the Dowry Prohibition Act, culminated into Criminal Case No. 3443 of 2021 pending before the competent Court at Gandhinagar, along with all consequential proceedings emanating therefrom, is quashed and set aside *qua* the present applicants only.

7.1 Rule is made absolute, accordingly. **Direct service** is permitted.

[P. M. Raval, J.]

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