

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Case: CRM(M) No. 396/2023

Reserved on : 19.08.2025

c/w

Pronounced on: .09.2025

CRM(M) No. 1023/2023

1.Subash Paul

S/o Gourranga Paul,

R/o H.No 0018, Nagrukhra Road,

Kamarthuba, East Habra,

North Twenty Four Parganas, West Bengal

2. Shipra Paul

W/o Subash Paul

R/o N. No. 0018, Nagrukhra Road,

Kamarthuba, East Habra,

North Twenty Four Parganas, West Bengal

.....Petitioner(s)/Appellant(s)

Through: Mr. Mohinder Charak, Advocate

Vs.

UT of Jammu and Kashmir

Through Police station Bari-Brahama

...Respondent(s)

Through:

Mr. Vivek Matoo, Advocate vice

Mr. Vishal Bharti, Dy.AG

CORAM:

HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL, JUDGE

JUDGMENT

1. The instant petitions under Section 482 of the Code of Criminal Procedure, 1973, have been filed by the petitioners, who are the father-in-law and mother-in-law of the deceased – Smt. Shilpi Paul, seeking quashing of FIR No. 201/2020 dated 05.09.2020 registered at Police Station Bari Brahmana, District Samba, under Sections 306, 498-A, 323, 109, 304-B of the Indian Penal Code, 1860, and the consequential Charge-sheet No. 20/2021 dated 12.10.2021 as well as the order framing

charges dated 01.06.2023 passed by the learned Additional Sessions Judge, Samba.

2. The facts giving rise to the present petition are that the deceased – Smt. Shilpi Paul was married to Rajeev Paul (son of petitioners) on 01.05.2014, and the couple was residing at Army Family Quarters, Bari Brahmana, Jammu, since 2018. On 05.09.2020, the deceased was found hanging from the ceiling of her residence under suspicious circumstances. An inquest was initiated, and subsequently, FIR was registered upon a complaint made by the father of the deceased.

3. The details of the FIR 201/2020 dated 5.09.2020 are as under:-

“On 05/09/2020 Information was received through reliable sources that Shilpi Paul W/O Hav. Rajeev Paul R/O East Kumar Thuba P/S Habra Tehsil Barasat, State West Bengal, at present residing in family quarter No. P449/7 5271 ASC BN situated at Bari Brahmana along with her husband. Her deadbody was found hanging from the ceiling in the quarter and was sent to MI room of the same unit. The death of the deceased was occurred in suspicious circumstances in order to ascertain the actual cause of death inquest proceeding vide DDR No. 26 dated 05/09/2020.

During the course of inquiry the statement of Subrata Majumder father of deceased U/S 175 CrPC was recorded. The contents of the statement is reproduce as under:- I am the father of late Shilpi Paul and she was my only child, she was married on 01/05/2014 with Rajeev Paul S/o Subash Paul, R/o Subhash Basu lane, East Kamarthuba. Habra, District North-24 Pargnas, West Bengal as per hindu customs and rites. Rajeev Paul was serving in Indian Army. After 3-4 months of marriage he started harassing her and sometimes beat her. Whenever our daughter shared his misbehavior I used to advice her not to take any adverse steps. Rajeev was also advised for not doing any wrongful act but he continued which mentally disturbed my daughter.

In 2015 my Son-in-law took my daughter to Rajasthan, his place of posting, and continued the misbehaviour. He also taunted her that she didn't get enough gifts from her house and demanded jewellery items from her.

In 2016 Rajeev took my daughter to her in law's house on his vacation and further took her out with an intention to kill her took to Digha (Sea Beach) which was a dangerous place. Where he took her to deep water area and left her to drown as he knew she couldn't swim. She started drowning and because of her hue and cry the people present nearby saved her from drowning. Rajeev again tried to kill her with "Gamcha" (Towel) but she managed to save

herself by locking the door. All these cruel acts were done because her dowry was inadequate as per him. Thereafter Shilpi Paul lodged FIR against Rajeev Paul and his parents i.e Sh. Subash Paul and Smt. Shipra Paul with concerned Police Station and stayed with us for a period of four months. Rajeev tried to contact my daughter during this period but she refused to attend the call. After a period of 2-3 months she picked and Rajeev told her that they live in conscience with each other. On request of Rajeev and some relatives, my daughter was sent back to her in-laws. In 2017 Shilpi gave birth to a son and in 2019, Rajeev along with my daughter and their son came to his posted area i.e Bari Brahmana. During the said period he continued hitting her. He also stopped her from meeting her parents and contacting them and continued his demand for dowry. My daughter used to contact us being afraid of his husband in his absence. Whenever she requested to visit her parents to her parental house he used to tell to go alone and leave their son. Rajeev on behest of his parent's advice, continued cruelty with my daughter due to which on 05/09/2020 Shilpi lost her life."

4. The specific allegations in the FIR are primarily directed against the husband – Rajeev Paul – and make vague and omnibus allegations against the petitioners, alleging that Rajeev Paul used to harass the deceased for dowry on the behest of his parents.

5. The petitioners were enlarged on bail by the Court of Session Judge, Samba vide order dated 26.02.2021 and their son Rajeev Paul has been granted bail by the High Court vide order dated 01.02.2021.

6. Learned counsel for the petitioners submits that the petitioners are permanent residents of House No. 0018, Nagrukhra Road, Kamarthuba, East Habra, North 24 Parganas, West Bengal and they have never resided with the deceased at any point in time. It is submitted that there are no specific, cogent or credible allegations in the FIR or charge-sheet that could prima facie attract the provisions under which the petitioners have been charged.

7. It is stated that neither the allegations made in the FIR disclose the ingredients of alleged offence under Sections 306,

498-A, 498-B, 323 and, 109 IPC nor the contents of any of the statements recorded by the investigation agency fulfil any of the ingredients of commission of any of the alleged offence. There is nothing in the charge sheet to even remotely connect the petitioners with the commission of the alleged offences.

8. The impugned FIR no. 201/2020 as well as the impugned Chargesheet No. 20/2021 dated 12.10.2021 is being challenged by the petitioners, precisely on the following grounds:-

- (i) The averments in the FIR, give only one conclusion that there is no legal basis on record for proceeding against petitioners and these averments are vague and omnibus;
- (ii) The allegations do not satisfy the ingredients of Sections 304-B, 504, 306, 323, 109, 498-A of Indian Penal Code and do not level allegation of any such nature which further clarifies that there is no ground for proceeding against the petitioners;

9. On the contrary, learned counsel for the respondent-State submits that the allegations raised in the complaint involve factual disputes which require adjudication through trial and as such, the petition under Section 482 Cr.P.C. is not maintainable.

10. Heard learned counsel for the parties, and perused the material on record as well as FIR and charge-sheet. A perusal thereof reveals that the only allegation against the petitioners is that their son used to harass the deceased on their behest for dowry. There is, however, no specific instance or act attributed to the petitioners regarding physical or mental cruelty, or any overt act linking them with the alleged offences. It is admitted that the petitioners were residing far away in West Bengal and the deceased was residing with her husband in the Army

quarters at Bari Brahmana, Jammu since 2018 till the date of the incidence.

11. Given the nature of the case and the different places of residence of the deceased and the petitioners, the Supreme Court has held a singular view multiple times with assertion that general and vague allegation against the family members should not form basis of prosecution as they often lead to misuse of legal provision.

12. The Hon'ble Supreme Court in case titled ***Dara Lakshmi Narayana vs State of Telangana and another***, 2024 INSC 953, has reiterated that vague and omnibus allegations without specific instances against the relatives of the husband should be nipped in the bud to prevent misuse of criminal law provisions, particularly under Section 498A IPC. In paras 25, 28, 30, 31 & 32 Hon'ble Supreme Court observed as follows:-

“25.A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. In the present case, appellant Nos.2 to 6, who are the members of the family of appellant No.1 have been living in different cities and have not resided in the matrimonial house of appellant No.1 and respondent No.2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.

28.The inclusion of Section 498A of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and

tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498A of the IPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm-twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498A of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.

30. In the above context, this Court in *G.V. Rao vs. L.H.V. Prasad* (2000) 3 SCC 693 observed as follows:

“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.”

31. Further, this Court in *Preeti Gupta vs. State of Jharkhand* (2010) 7 SCC 667 held that 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 by the husband's close relatives 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 scrutinized with great care and circumspection.

32. We, therefore, are of the opinion that the impugned FIR No.82 of 2022 filed by respondent No.2 was initiated with ulterior motives to settle personal scores and grudges against appellant No.1 and his family members i.e., appellant Nos.2 to 6 herein. Hence, the present case at hand falls within category (7) of illustrative parameters highlighted in *Bhajan Lal*. Therefore, the High Court, in the present case, erred in not exercising the powers available to it under Section 482 CrPC and thereby failed to prevent abuse of the Court's process by continuing the criminal prosecution against the appellants.”

13. Again Hon'ble Supreme Court in case titled ***Abhishek vs.***

The State of Madhya Pradesh, 2023 SCC ONLINE SC 1083 has

been held that criminal proceedings against in-laws based on generalised allegations, without specific attribution of acts constituting cruelty or instigation, amount to abuse of the process of law. In Para 13 following has been observed:-

“13. Recently, in *Kahkashan Kausar alias Sonam v. State of Bihar* [(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.”

14. In the present case also, the petitioners were residing separately from the deceased and her husband. There is no allegation of any direct involvement, instigation, or specific act of cruelty by the petitioners. The allegations made are vague and general in nature, with no supporting material to show any direct involvement of the petitioners in the unfortunate demise of the deceased-Shilpi Paul. Continuing the proceedings against them would amount to abuse of process of law.

15. In view of the above discussion and keeping in mind the law laid down by the Hon'ble Supreme Court, this Court is of the considered view that the continuation of criminal proceedings against the petitioners would result in a clear abuse of the

process of law and would cause unnecessary harassment to them.

16. Accordingly, the FIR No. 201/2020 dated 05.09.2020, registered at Police Station Bari Brahmana, District Samba, and the Charge-sheet No. 20/2021 dated 12.10.2021, as well as the order on charge dated 01.06.2023 passed by the learned Additional Sessions Judge, Samba insofar as same relate to the present petitioners, are hereby quashed.

17. Both the petitions are disposed of in the above said terms.

Jammu
.09.2025
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(VINOD CHATTERJI KOUL)
JUDGE

