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IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

BEFORE  
HON'BLE SHRI JUSTICE RAJENDRA KUMAR (VERMA)  
ON THE 11<sup>th</sup> OF NOVEMBER, 2022

**MISC. CRIMINAL CASE No. 46786 of 2019**

**BETWEEN:-**

1. KUL BHUSHAN GUPTA S/O LATE PHOOL CHAND, AGED ABOUT 64 YEARS, OCCUPATION: RETIRED R205 AMRAPALI SILICON CITY SECTOR 76 NOIDA (UTTAR PRADESH)
2. SMT. SANGITA GUPTA W/O SHIR KUL BHUSHAN GUPTA, AGED ABOUT 60 YEARS, OCCUPATION: HOUSEWIFE R 205, AMRAPALI SILICON CITY, SECTOR 76, NOIDA, UP (UTTAR PRADESH)
3. DR. ROHIT MITTAL S/O SHRI KUL BHUSHAN GUPTA, AGED ABOUT 30 YEARS, OCCUPATION: DOCTOR R205 AMRAPALI SILICON CITY SECTOR 76 NOIDA (UTTAR PRADESH)

.....PETITIONER

*(SHRI DEEPTANSHU SHUKLA, LEARNED COUNSEL FOR THE PETITIONERS)*

**AND**

1. THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH PS MAHILA THANA PALASIA INDORE (MADHYA PRADESH)
2. SMT, HARSHALI MITTAL W/O SHRI RACHIT MITTAL, AGED ABOUT 35 YEARS, 110, RNT MARG , CHHAWWNI (MADHYA PRADESH)

.....RESPONDENTS

*(SHRI VISMIT PANOT PL APPEARING ON BEHALF OF ADVOCATE GENERAL/STATE AND NONE FOR RESPONDENT NO.2*

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*This application coming on for ADMISSION, with consent of the parties heard finally and, the court passed the following:*

**ORDER**

The petitioners have filed the present petition under Section 482 of Cr.P.C. for quashment of FIR dated 08.04.2019 bearing Crime No.68/2019 registered at Police Station Mahila Thana, Indore under Section 498-A, 323/34 of IPC and under Section 3/4 of Dowry Prohibition Act 1961 along with the subsequent proceedings pending before the JMFC, Indore in Case No.2494/2019.

As per the prosecution story, the complainant/respondent no.2 has approached the police station and lodged the FIR at Mahila Police Station, Indore by submitting that her marriage was solemnized on 04.07.2014 with son of petitioner no.1 and 2. She lived with her in-laws. and since after her marriage, she alleged that her in-laws and her husband have harassed her and demanded Rs.10Lacs as dowry at various occasions and harassed her mentally and physically. They were taunting her and harassing her and they were constantly pressurizing her for taking dowry from her parents. Hence, the police has registered the FIR against the petitioners.

Learned counsel for the petitioners submits that petitioner no.1 and 2 are parents in law of respondent no.2/complainant and petitioner no.3 is brother in law of respondent no.2. It is further submitted that the complainant came to Indore on 30.01.2019 and she has mentioned two different descriptions one at P.S. Sanyogitaganj and another at Mahila Police Station, Indore for the same incident and there are material contradictions in both the complaints. The petitioners are innocent and

have falsely been implicated in the present Case. The FIR, in the given facts and circumstances is having no ingredient of Section 498-A and 323 of IPC. He further submits that in the marriage of the complainant and son, parents of both the parties have born out 50-50% of the amount incurred in the marriage and this fact was mentioned in the affidavit given by father of respondent no.2 dated 05.07.2014. It is also submitted that in the list of affidavit, list of ornaments given by the parents and parents-in-law of respondent n.2 have also been given at the time of marriage. It is also submitted that the list given by respondent no.2 to the police, ornaments given by parents-in-law are also included as given by parents-in-law. It is further submitted that the period for which the allegations have been leveled, petitioner no.3 was pursuing his MDS (Orthodontics) and joined ITS Centre between 2015 to 2018. She has not made any allegations against the petitioners since last so many years. The FIR has been filed only on the basis of afterthought omnibus allegations and only with intent to harass the petitioners, there is no date and time in the FIR to establish that on which date the incident was happened. Hence, there is no ingredients of harassment or demand of dowry, therefore, the petitioners are entitled for quashment.

Learned counsel for the petitioners cited the judgment of Hon'ble Apex Court in the case of **Narinder Singh and Anr. Vs. State of Punjab and Anr., (2014) 3 SCC (Cri) 54**. In this case, Hon'ble Apex Court in para 29 of the judgment laid down the guidelines on which the

High Court using the extraordinary jurisdiction under Section 482 and quash the charges framed under non-compoundable offences. Taking the guidelines framed by the Supreme Court under consideration. It is apparent that the present dispute is regarding a business matter. It is their personal dispute and society at large is not affected by the dispute. The Hon'ble Apex Court in para 29.2 laid down two tests stating therein that the guiding factor in such cases would be to secure:

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

Counsel for the petitioners further placed reliance over the judgment of Hon'ble Apex Court in the case of **Neelu Chopra and another Vs. Bharti** reported in (2009) 10 SCC 184, **Geeta Mehrotra and another Vs. State of U.P. and another** reported in AIR 2013 SC 181 and **Kahkashan Kausar @Sonam and others Vs. State of Bihar and others** reported in 2022 SCC Online SC 162 & **Pushpa Sonakiya and Others vs. State of M.P. & Others** [2019 SCC Online MP 4800].

Learned counsel for the State has opposed the prayer by submitting that the petitioners have harassed the respondent no.2, hence, she has filed the FIR against the petitioners due to the harassment by the petitioners. Trial is going on, charge-sheet has already been filed and if

the petitioners have not committed any harassment or demand of dowry, the learned trial Court shall considered the same as per the evidence available on record at the time of final judgment. Hence, the petitioners are not entitled for any relief from this Court.

I have heard the learned counsel for the parties and have perused the case diary as well as record.

From the face of record, it is admitted that the petitioners no.1 and 2 are parents-in-law of respondent no.2 and petitioner no.3 is brother-in-law of respondent no.2/complainant. Respondent no.2 has made only omnibus allegations against the present petitioners in the FIR as well as in the statements recorded under Section 161 of Cr.P.C. The respondent has lived with the present petitioners for a long period, such types of allegations have not been leveled by her to any one and no report was filed and first time, she has leveled the allegations filing the FIR against the petitioners almost 5 years later of her marriage.

It is also submitted that 31.01.2019, an NCR was lodged before the Police Station Sanyogitaganj, but no allegations have been made regarding harassment and cruelty which reproduced as under:-

मै उक्त पते पर रहती हूँ एवं टी. सी. एस. कम्पनी नोएडा मे काम करती हूँ एवं कल दिनांक 30.01.19 को मैं फ़्लाईट से नोएडा से इन्दौर कल शाम को घर गई थी अपने बच्चे हर्षित मित्तल उम्र 3 साल के साथ बाद मेरा पति रचित मित्तल लगभग 9 बजे रात्रि को फ़्लाईट से आ गया था एवं मुझसे और बच्चे से मिलने के लिए एवं बच्चे को अपने साथ ले जाने के लिए

जिद करने लगा बाद उसको समझाया लेकिन नहीं माना एवं आज दि. 31.01.19 को लगभग सुबह 6 बजे मुझसे जबरन मेरे लडके हर्षित को जबरजस्ती ले जाने लगा तो मैने और मेरे पिताजी उमेश खण्डेलवाल एवं मेरे भाई समर्थ खण्डेलवाल ने रोकने का प्रयास किया तो हम तीनों के साथ उसने धक्का मुक्की की एवं गाली गलौच की है धक्का मुक्की मे मुझे सिर मे व मेरे पिताजी को दाहिने हाथ मे चोट आई बाद मे अपने पिताजी व भाई के साथ रिपोर्ट करने थाने आयी हूँ । रिपोर्ट करती हूँ कार्यवाही की जावे ।

On the same day, a written application was also filed before Mahila Thana, Indore regarding demand of dowry and cruelty and on 08.04.2019 also, a written complaint was again filed. In the complaint dated 31.01.2019, there is no allegations of demand of dowry and cruelty and made the allegations on the basis of which the present FIR has been registered. On 30.01.2019, there is no allegations of demand of dowry and only omnibus allegations were leveled against the petitioners by the respondent.

In the case of **Geeta Mehrotra (Supra)**, it has been held by Hon'ble Apex Court that "large number of family members had been included in FIR casually mentioning their names and contents did not disclose their active involvement, cognizance of matter against them would not be justified. Under such circumstances, cognizance would result in abuse of judicial process"

In the light of the above principles laid down by Hon'ble Apex Court in the Case, in the opinion of this Court, except omnibus

allegations, there is nothing on record against the petitioners and merely by making general allegations that the petitioners are involved in torture of the complainant, it would not be just to proceed against the petitioners when the FIR does not disclose the ingredients of under Section 3 and 4 of Dowry Prohibition Act, 1961 and under section 498-A, 323/34 of IPC.

In view of the preceding analysis, this petition is allowed. Impugned FIR dated 08.04.2019 bearing Crime No.68/2019 registered at Police Station Mahila Thana, Indore under Section 498-A, 323/34 of IPC and under Section 3/4 of Dowry Prohibition Act 1961 alongwith the subsequent proceedings pending before the JMFC, Indore in Case No.2494/2019 pending against the petitioners are hereby quashed. The petitioners namely Kul Bhushan Gupta, Smt. Sangita Gupta and Dr. Rohit Mittal are discharged from offences aforesaid.

A copy of this order be sent to the concerned trial court for information.

Certified Copy, as per rules.

**(RAJENDRA KUMAR (VERMA))**  
**JUDGE**

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