



2025:CGHC:27647-DB

**NAFR**

## **HIGH COURT OF CHHATTISGARH AT BILASPUR**

### **CRMP No. 784 of 2025**

**1** Mo. Zuber Memon S/o- Mo. Sadik Rizwi Aged About 40 Years R/o- House No. 87, Ward No. 12, Mazzid Gali Keshkal, P.S.- Keshkal, Distt.- Kondagaon (C.G.)

**2** Mohammad Sadik Rizvi S/o Abdul Gaffar Aged About 60 Years R/o- House No. 87, Ward No. 12, Mazzid Gali Keshkal, P.S.- Keshkal, Distt.- Kondagaon (C.G.)

**3** Zabin Bano W/o Mohammad Sadik Rizwi Aged About 55 Years R/o- House No. 87, Ward No. 12, Mazzid Gali Keshkal, P.S.- Keshkal, Distt.- Kondagaon (C.G.)

**4** Shirin Hingora W/o- Irfan Hingora Aged About 41 Years R/o- Near Bus Stand, Umarkot, Navrangpur, P.S.- Umarkot, Distt- Navrangpur (Orisha)

**5** Nikhat Fatima W/o Mo. Farukh Aged About 34 Years R/o- Ward No. 08, Takiya Para, Durg, P.S.- Durg, Distt- Durg (C.G.)

**... Petitioner(s)**

**versus**

**1** State Of Chhattisgarh Through- Police Station- Mahila Thana, Raipur, Distt.- Raipur (C.G.)

**2** Shirin Bano W/o Mo. Zuber Menon Aged About 29 Years R/o- House Of Abdul Gaffar, Near Daimond Backery, Sanjay Nagar, Raipur, P.S.- Raipur, Tikrapara, Distt.- Raipur (C.G.)

**... Respondent(s)**

**(Cause title taken from CIS)**

For Petitioner(s)	: Mr. Akhtar Hussain , Advocate
For Respondent/State	: Mr. Nitansh Jaiswal, Panel Lawyer
For Respondent No. 2	: Mr. Priyank Rathi, Advocate

**Hon'ble Shri Ramesh Sinha, Chief Justice**

**Hon'ble Shri Bibhu Datta Guru, Judge**

**Order on Board**

**Per Ramesh Sinha, Chief Justice**

**25/06/2025**

1. Heard Mr. Akhtar Hussain learned counsel for the petitioners, Mr. Nitansh Jaiswal, learned Panel Lawyer for the State/respondent No. 1 as well as Mr. Priyank Rathi, learned counsel for the respondent No. 2.
2. By this petition under Section 528 of B.N.S.S the petitioners have prayed for the following relief(s):

*“1. That, this Hon'ble Court may kindly be pleased to allow this petition and quash the FIR as well as entire Charge-sheet bearing it's number 80/2024, charge-sheet filing dated 06.08.2024, F.I.R. filed against the petitioner by the Police of Police Station- Mahila Thana, District- Raipur (C.G.) on 18.02.2024, in connection with Crime no.-34/2024.*

*2. That, this Hon'ble Court may kindly set aside the cognizance dated 23.12.2024, taken by the learned*

*Judicial Magistrate First Class, Raipur, District-Raipur (C.G.), and further quash the entire criminal proceeding with Criminal Case No. 34/2024 under Section 498 A, 506, 34 of 1.P.C. (next date of Trial is 10.03.2025), in the interest of justice.”*

3. The facts, in brief, as projected by the petitioners are that on 15.11.2018 respondent No. 2 marriage was solemnized with petitioner No. 01 as per Muslim customs and rites and a boy was born out of their wedlock and subsequently her inlaws demanded for dowry and started to harass her. Thereafter, she left her matrimonial house and complaint has been registered against the petitioners under Section 498A/34 of the IPC.
4. It has been argued by learned counsel for the petitioners that petitioner No.1 is husband of respondent No.2. It is stated that there was a matrimonial dispute between petitioner No.1 and respondent No.2 as they are husband and wife and their marriage was solemnized on 15.11.2018. He further submits that the present proceedings against the petitioner No.1 who is husband and petitioners No.2 to 5 who are inlaws of respondent No.2 be quashed.
5. On the other hand, learned counsel appearing for respondent No.2 has submitted that matter was sent to mediation but mediation has failed.
6. We have heard learned counsel for the parties and perused the documents appended with petition.

7. In the matter of ***Geeta Mehrotra and another v. State of Uttar Pradesh and another***<sup>1</sup>, the Supreme Court has held that casual reference to the family member of the husband in FIR as co-accused particularly when there is no specific allegation and complaint did not disclose their active involvement. It was held that cognizance of matter against them for offence under Sections 498-A, 323, 504 and 506 of the IPC would not be justified as cognizance would result in abuse of judicial process.
  
8. In the matter of ***K. Subba Rao and others v. State of Telangana represented by its Secretary, Department of Home and others***<sup>2</sup> the Supreme Court delineated the duty of the criminal Courts while proceeding against relatives of victim's husband and held that the Court should be careful in proceeding against distant relatives in crime pertaining to matrimonial disputes and dowry deaths and further held that relatives of husband should not be roped in on the basis of omnibus allegations, unless specific instances of their involvement in offences are made out.
  
9. In the matter of ***Rashmi Chopra v. State of Uttar Pradesh and Another***<sup>3</sup>, it has been held by the Supreme Court relying upon the principle of law laid down in ***State of Haryana and others v. Bhajan Lal and others***<sup>4</sup> that criminal proceedings can be allowed to proceed only when a *prima facie* offence is disclosed and

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<sup>1</sup> (2012) 10 SCC 741

<sup>2</sup> (2018) 14 SCC 452

<sup>3</sup> 2019 SCC OnLine SC 620

<sup>4</sup> 1992 Supp (1) SCC 335

further held that judicial process is a solemn proceeding which cannot be allowed to be converted into an instrument of oppression or harassment and the High Court should not hesitate in exercising the jurisdiction to quash the proceedings if the proceedings deserve to be quashed in line of parameters laid down by the Supreme Court in ***Bhajan Lal*** (supra) and further held that in absence of specific allegation regarding anyone of the accused except common and general allegations against everyone, no offence under Section 498A IPC is made out and quashed the charges for offence under Section 498A of the IPC being covered by category seven as enumerated in ***Bhajan Lal*** (supra) by holding as under:-

*“24. Coming back to the allegations in the complaint pertaining to Section 498A and Section 3/4 of D.P. Act. A perusal of the complaint indicates that the allegations against the appellants for offence under Section 498A and Section 3/4 of D.P. Act are general and sweeping. No specific incident dates or details of any incident has been mentioned in the complaint. The complaint having been filed after proceeding for divorce was initiated by Nayan Chopra in State of Michigan, where Vanshika participated and divorce was ultimately granted. A few months after filing of the divorce petition, the complaint has been filed in the Court of C.J.M., Gautam Budh Nagar with the allegations as noticed above. The sequence of the events and facts and circumstances of the case leads us to conclude that the complaint under Section 498A and Section*

*3/4 of D.P. Act have been filed as counter blast to divorce petition proceeding in State of Michigan by Nayan Chopra.*

*25. There being no specific allegation regarding any one of the applicants except common general allegation against everyone i.e. “they started harassing the daughter of the applicant demanding additional dowry of one crore” and the fact that all relatives of the husband, namely, father, mother, brother, mother’s sister and husband of mother’s sister have been roped in clearly indicate that application under Section 156(3) Cr.P.C. was filed with a view to harass the applicants.....”*

10. The Apex Court, in ***Payal Sharma v. State of Punjab & Another*** {Cr.A. No. 4773/2024, decided on 26.11.2024} had, relying on the decision in ***Geeta Mehrotra*** (supra), ***Kahkashan Kausar @ Sonam & Others v. State of Bihar & Others*** {(2022) 6 SCC 599}, ***Bhajan Lal*** (supra), and ***Umesh Kumar v. State of Andhra Pradesh & Another*** {(2013) 10 SCC 591}, had quashed the FIR and the consequential proceedings emanating therefrom.
11. Very recently, the Apex Court, in ***Dara Lakshmi Narayan & Others v. State of Telangana & Another*** {Cr.A. No. 5199 of 2024, decided on 10.12.2024}, has observed as under:

*“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.*

*26. In fact, in the instant case, the first appellant and his wife i.e. the second respondent herein resided at Jollarpeta, Tamil Nadu where he was working in Southern Railways. They were married in the year 2015 and soon thereafter in the years 2016 and 2017, the second respondent gave birth to two children. Therefore, it cannot be believed that there was any harassment for dowry during the said period or that there was any matrimonial discord. Further, the second respondent in response to the missing complaint filed by the first appellant herein on 05.10.2021 addressed a letter dated 11.11.2021 to the Deputy Superintendent of Police, Thirupathur Sub Division requesting for*

*closure of the said complaint as she had stated that she had left the matrimonial home on her own accord owing to a quarrel with the appellant No.1 because of one Govindan with whom the second respondent was in contact over telephone for a period of ten days. She had also admitted that she would not repeat such acts in future. In the above conspectus of facts, we find that the allegations of the second respondent against the appellants herein are too far-fetched and are not believable.*

27. xxx                      xxx                      xxx

*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.*

*29. We are not, for a moment, stating that any woman who has suffered cruelty in terms of what has been contemplated under Section 498A of the IPC should remain silent and forbear herself from making a complaint or initiating any criminal proceeding. That is not the intention of our aforesaid observations but we should not encourage a case like as in the present one, where as a counterblast to the petition for dissolution of marriage sought by the first appellant-husband of the second respondent herein, a complaint under Section 498A of the IPC is lodged by the latter. In fact, the insertion of the said provision is meant mainly for the protection of a woman who is subjected to cruelty in the matrimonial home primarily due to an unlawful demand for any property or valuable security in the form of dowry. However, sometimes it is misused as in the present case.*

*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."*

Observing the aforesaid, the Apex Court quashed the FIR, the charge sheet and the consequential criminal proceedings pending before the learned trial Court.

12. In the complaint so made, the complainant has only made omnibus and general allegations against the petitioners without being full particulars about date and place that all the petitioners including the husband treated her with cruelty. There is no specific allegation regarding anyone of the petitioners except common and general allegations against all the petitioners that they have demanded cash amount.
13. Considering the submissions of the learned counsel for the parties, material available on record, perusing the FIR in which no specific allegations have been made and only bald and omnibus allegations have been made against the petitioners, we are of the considered opinion that prima-facie no offence under Section 498A/34 of the IPC is made out for prosecuting **petitioner No.2-Mohammad Sadik Rizvi, petitioner No.3-Zabin Bano, petitioner No.4-Shirin Hingora, and petitioner No.5- Nikhat Fatima** for the above-stated offences.

14. As a fallout and consequence of the above-stated legal analysis, Criminal Case No. 27355/2024 pending in the Court of Judicial Magistrate First Class, Raipur, arising out of Crime No. 34/2024 registered at Mahila Thana, Raipur for offence under Sections 498A/34 of the IPC is hereby quashed to the extent of **petitioner No.2- Mohammad Sadik Rizvi, petitioner No.3-Zabin Bano, petitioner No.4-Shirin Hingora, and petitioner No.5- Nikhat Fatima**. Prosecution against her husband **petitioner No.1Mo. Zuber Memon** shall continue. Concerned trial Court will decide criminal case pending against petitioner No.1-Mo. Zuber Memon strictly in accordance with law without being influenced by any of these observations made hereinabove.
15. The petition under Section 482 CrPC is allowed to the extent indicated hereinabove. No cost(s).

Sd/-

**(Bibhu Datta Guru)**  
**Judge**

Sd/-

**(Ramesh Sinha)**  
**Chief Justice**