

**(2024) 04 GUJ CK 0001**  
**In the Gujarat High Court**

**Case No :** R/Special Criminal Application (Quashing) No. 3135 Of 2024

Ajay Rajkumar Rohra

APPELLANT

Vs

State Of Gujarat & Anr

RESPONDENT

**Date of Decision :** 01-04-2024

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 482  
Indian Penal Code, 1860 — Section 114, 294(b), 323, 498A, 506, 506(2)  
Dowry Prohibition Act, 1961 — Section 4

**Citation :** (2024) 04 GUJ CK 0001

**Hon'ble Judges :** Hasmukh D. Suthar, J

**Bench :** Single Bench

**Advocate :** Vishal B Mehta, Divyangana Jhala

**Final Decision :** Allowed

## Judgement

Hasmukh D. Suthar, J

1. Learned advocate Mr. Kunal P Chandiramani states that he has instructions to appear on behalf of the original complainant and thereby, seeks permission to file his Vakalatnama, which is granted. Heard learned advocates for the respective parties.

2. RULE. Learned advocates waive service of notice of rule on behalf of the respective respondents.

3. Considering the facts and circumstances of the case and since it is jointly stated at the Bar by learned advocates on both the sides that the dispute between the parties has been resolved amicably, this matter is taken up for final disposal forthwith.

4. By way of this application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C."), the applicant has prayed to quash and set aside the complaint being FIR CR No.11191035220842 of 2022 registered with Naroda Police Station, Ahmedabad for the offences under

Sections 498A, 323, 294(b), 506(2) and 114 of Indian Penal Code, 1860 and Section 4 of the Prevention of Dowry Act as well as all the consequential proceedings arising therefrom.

5. Learned advocates for the respective parties submitted that during the pendency of proceedings, the parties have settled the dispute amicably and pursuant to such mutual settlement, the original complainant has also filed an Affidavit, which is taken / placed on record. In the Affidavit, the original complainant has categorically stated that the dispute with the applicant/s has been resolved amicably and that he has no objection, if the present proceedings are quashed and set aside since there is no surviving grievance between them.

6. Having heard learned advocates on both the sides and considering the facts and circumstances of the case, It appears that the accused harassed the complainant mentally and physically for dowry demands and threatened to kill her, which led to the present complaint. However, the matter is now amicably settled between the parties and in this regard the complainant personally remained present before this Court and produced a affidavit stating that she has no objection if the complaint is quashed. So far as offence under Section 506 of IPC is concerned, the learned Apex Court in the case of Mohammad Wajid and Anr. v. State of U.P. and Ors., reported in 2023 LiveLaw (SC) 624: 2023 INSC 683, has held that:

"Indian Penal Code, 1860; Section 506 - Before an offence of criminal intimidation is made out, it must be established that the accused had an intention to cause alarm to the complainant. (Para 27) 3 Interpretation of Statutes- All penal statutes are to be construed strictly - Court must see that the thing charged is an offence within the plain meaning of the words used and must not strain the words. (Para 19-21)"

7. In view of the above, as the principle laid down by the Apex Court in the cases of (i) Gian Singh Vs. State of Punjab & Anr., reported in (2012) 10 SCC 303, (ii) Madan Mohan Abbot Vs. State of Punjab, reported in (2008) 4 SCC 582, (iii) Nikhil Merchant Vs. Central Bureau of Investigation & Anr., reported in 2009 (1) GLH 31, (iv) Manoj Sharma Vs. State & Ors., reported in 2009 (1) GLH 190 and (v) Narinder Singh & Ors. Vs. State of Punjab & Anr. reported in 2014 (2) Crime 67 (SC), in the opinion of this Court, the further continuation of criminal proceedings against the applicant/s in relation to the impugned FIR would cause unnecessary harassment to the applicant/s. Further, the continuance of trial pursuant to the mutual settlement arrived at between the parties would be a futile exercise. Hence, to secure the ends of justice, it would be appropriate to quash and set aside the impugned FIR and all consequential proceedings initiated in pursuance thereof under Section 482 of the Cr.P.C..

8. It appears that petitioner is facing charge of Section 498A of IPC. Therefore, as per the allegations made in the complaint, ingredient of Section 498A is made out. In this regard, it would be apposite to refer the decisions of the Apex Court

in case of *Abhishek vs. State of Madhya Pradesh* reported in 2023INSC779 Gupta and another vs. State of Jharkhand and another [(2010) 7 SCC 667], it is observed that "this Court noted that the tendency to implicate the husband and all his immediate relations is also not uncommon in complaints filed under Section 498A IPC. It was observed 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, as allegations of harassment by husband's close relations, who were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different complexion and such allegations would have to be scrutinised with great care and circumspection".

9. In the aforesaid backdrop, complaint is filed. It is necessary to consider whether the power conferred by the High Court under section 482 of the Code of Criminal Procedure is warranted. It is true that the powers under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage as the Hon'ble Supreme Court has decided in the case of *Central Bureau of Investigation vs. Ravi Shankar Srivastava, IAS & Anr.*, reported in AIR 2006 SC 2872.

10. In the result, the application is allowed. The impugned complaint being CR No.11191035220842 of 2022 registered with Naroda Police Station, Ahmedabad as well as all consequential proceedings initiated in pursuance thereof are hereby quashed and set aside qua the applicant/s herein. Rule is made absolute. Direct service is permitted. If the applicant/s is/are in jail, the jail authority concerned is directed to release the applicant/s forthwith, if not required in connection with any other case.