

---

**(2018) 04 MP CK 0120**  
**In the Madhya Pradesh High Court**  
**Case No : M.Cr.C. No. 10858 OF 2017**

Anup Agrawal & Ors

APPELLANT

Vs

State Of Madhya Pradesh & Ors

RESPONDENT

---

**Date of Decision :** 16-04-2018

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 482  
Indian Penal Code 1860 — Section 34, 323, 498A  
Hindu Marriage Act, 1955 — Section 13(B)

**Citation :** (2018) 04 MP CK 0120

**Hon'ble Judges :** S.K. AWASTHI, J

**Bench :** Single Bench

**Advocate :** Anup Agrawal, Mamta Shandilya, Vinod Kuma Bhavsar

**Final Decision :** Allowed

---

## Judgement

The applicants filed instant petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'The code') seeking quashment of FIR

bearing Crime No. 14/2017 dated 06/01/2017 for commission of offence under Sections 498(A) and 323/34 of the IPC registered at Police-Station-

Lasudiya, Distric-Indore and charge-sheet dated 27/06/2017 filed in respect of the aforesaid FIR.

2. The necessary facts leading to filing of the instant petition are that the marriage of applicant No.1-Anup Agrawal was solemnized with respondent

No.2-Trupti Agrawal on 24/04/2014 as per Hindu rituals and customs. Respondent No. 2 made a complaint against the applicants alleging that in the

marriage her parents had given ornaments, household articles and cash of Rs.3.50 Lacs to the applicants. However, after the marriage, all the

accused persons started to harass the respondent No. 2 alleging that her parents had given nothing in the marriage and they demanded money from

her. At the time of Diwali festival in the year 2014 the applicants beat her and she was thrown out of her matrimonial home. On the basis of aforesaid allegations an FIR for commission of offence under Sections 498(A) and 323/34 was registered against the applicants at Police-Station Lasudiya and after completion of investigation charge-sheet was filed. In the month of June 2015, the applicant was transferred to Ahemdabad but the respondent No.2 refuse to accompanied him, since she did not want to give her job in the ICICI Bank, Indore. Applicant No.1 tried to relocate back to Indore. Respondent No.2 informed the applicant No.1-in the mid-August 2014 first time that she owed a debt liability of approximately Rs.25 Lacs against Indore Development Authority flat situated in Anandvan (Highrise), Scheme No. 140 and she is paying an EMI of approximately Rs.25,000/- towards the said loan from July 2015. On 01/12/2015, respondent No.2 asked the applicant No.1 to help her for Rs. 6,54,080/- to enable her to get possession of the aforesaid flat, however, due to a shortage of funds the applicant No.1 was unable to help the respondent No.2 to pay the same and because of this respondent No.2 got furious with the applicant No.1 and refused to come back to the matrimonial home. Applicant No.1 applied for new job and he got his new assignment at Pune but respondent No.2 refused to come to Pune saying that she cannot stay in relationship with a person, who cannot arrange money for her when she needs it. On 20/12/2016, a family meeting was arranged in Neemuch to resolve the said issued. But respondent No.2 did not turn up on the aforesaid date. Thereafter, applicants made several attempts for reconciliation but they have not received any response from respondent No.2. On 27/09/2016, at the house of family friend of the applicant a family meeting was arranged, in which respondent No.2 alongwith her father and other relatives were present in an extremely aggressive manner and threatened that they would implicate the applicants in false case under the Domestic Violence and Dowry Prohibition Act in order to harass and humiliate the applicants and tarnish their reputation. They abused applicant Nos. 2 & 4 and attempted to assault the applicant No.1. In this regard applicant No.4 lodged a complaint against the said intimidation and threatening in the Police-Station at Neemuch.

3. On 01/12/2016, respondent No.2 filed a complaint against the applicants at the Mahila Thana, Indore alleging that the she was treated with cruelty

by the applicants in order to extract the dowry from her parents. There upon the applicants were summoned by the Mahila Thana, Indore. Whereupon

the police recorded the statement of the applicants and respondent No.2 . During counseling proceedings and respondent No.2 could not substantiate

her case against the applicants and then she sought some time to think and to provide evidence of her allegations against the applicants. On

18/12/2016, another counseling session was conducted, in which they came to the conclusion that the differences have arisen between them and

respondent No.2 was agreed to file a petition for dissolution of the marriage by mutual consent under Section 13(B) of the Hindu Marriage Act, 1955

with the condition that she wanted back of her belongings that may be lying at the house of applicant No.1. On 18/12/2016, the respondent No.2

collected her remaining belongings under the supervision of the SHO, Mahila Thana from their rented housed situated at Nipaniya, Indore and the

Police-Station Mahila Thana filed a closure report before the Court of Judicial Magistrate First Class.

4. On 06/01/2017, the respondent No.2 again made a false complaint against the applicants with identical facts at Police-Station-Lasudiya, Indore,

where FIR bearing Crime No. 14/2017 got registered for the offence under Sections 498(A) and 323/34 of the IPC against the applicants. Then the

applicant No.1 tried in every possible manner to bring to the notice of the Police-Station-Lasudiya, Indore that the said FIR had been registered on the

basis of a false and malicious complaint and that the said issues between the parties stood resolved, with the written consent of the respondent No.2,

during the previous proceedings in the Mahila Thana, Indore, in December 2016. However, no heed was paid to the requests of the applicant No.1 and

charge-sheet was filed against the applicants before the Court of Additional Chief Judicial Magistrate, Indore. The aforesaid charge-sheet is

completely malafide and illegal and there is no ground for prosecution of the applicants are available. Only vague and omnibus allegations has been

made in the complaint, which are totally false and concocted, therefore, FIR bearing Crime No. 14/2017 dated 06/01/2017 for commission of offence

under Sections 498(A) and 323/34 of the IPC registered at Police-Station-Lasudiya, Distric-Indore and charge-sheet dated 27/06/2017 filed in respect

of the aforesaid FIR is liable to be quashed.

5. Per contra learned counsel appearing on behalf of respondents has supported the criminal prosecution on the ground that prima facie the allegations

levelled against the applicants are made out, therefore, the petition deserves to be dismissed.

6. I have considered the rival contentions raised on behalf of the parties and have perused the documents placed on record along with the present application.

7. The parameters on which the indulgence can be shown for exercising powers available under Section 482 of the Cr.P.C. with respect to

matrimonial matters have been laid down by the Apex Court in the case of Geeta Mehrotra Vs. State of U.P. (2012) 10 SCC 741 in the following

manner:

20. Coming to the facts of this case, when the contents of the FIR are perused, it is apparent that there are no allegations against Kumari Geeta

Mehrotra and Ramji Mehrotra except casual reference of their names which have been included in the FIR but mere casual reference of the names

of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them

overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel

taking place in a matrimonial dispute specifically if it happens soon after the wedding.

8. In another judicial pronouncement by the Supreme Court in the case of Ramesh Rajagopal Vs. Devi Polymers (P) Ltd; (2016) 6 SCC 310, wherein

the Hon'ble Court referred to the earlier decision, observed in the following manner:-

15. In Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [Madhavrao Â Jiwajirao Â Scindia Â Vs. Sambhajirao Chandrojirao

Angre, (1988) 1 SCC 692, 1988 SCC (Cri) 234}, this Court observed as follows: (SCC p. 695, para 7)

7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the Court is as to

whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features

which appear in a particular case to consider whether it is expedient and in the

interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage.â??

9. However, it has been held by the Apex Court in the case of Satish Mehra Vs. State (NCT of Delhi) and another, AIR 2013 SC 506 that the power to interdict a proceeding either at the threshold or at an intermediate stage of the trial is inherent in a High Court on the broad principle that in case the allegations made in the FIR or the criminal complaint, as the case may be, prima facie do not disclose a triable offence, there can be no reason as to why the accused should be made to suffer the agony of legal proceedings. Thus, such power would be available for exercise not only at the threshold of a criminal proceeding but also at a relatively advanced stage thereof, namely, after framing of charge against the accused.

10. It has been held in the case of State of Haryana Vs. Bhajan Lal, AIR 1992 SC 604, that where a criminal proceedings is manifestly attended with male fide 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, extraordinary or inherent powers reserved to the High Court under Section 482 of the Code of Criminal Procedure can be exercised to quash the first information report.

11. In the context of the law laid down by the Apex Court, the plain reading of the FIR lodged by the respondent No.2, goes to show that the allegations relating to commission of offence punishable under Section 498(A) of the IPC are omnibus and do not refer to any specific act of the applicants. Although she has made an allegation that on 27/04/2014, when they had gone to Shimla (H.P.) for their honeymoon, the applicant No.1- taunted her alleging that her father has not given anything in the dowry and on Diwali festival of the year 2014, the applicants beat her with respect to demand of dowry, but she has not made any complaint regarding these incidents till 2016, which clearly indicates that all these allegations are vague and false.

12. On 18/12/2016, at Mahila Thana Indore respondent No.2 made the following statement, which reads as under: I, Trupti W/o Anup

Agrawal, give this undertaking today i.e. on 18/12/2016 after counseling at Mahila Thana, Indore both of us husband and wife thinks that our thoughts

does not match and it is not possible for us to live together any more. I wants to return my belongings from my husband and he is agreed to return the

same. We will transfer our belongings with mutual understanding and we will file a divorce petition before the Court with mutual consent.

13. The reproduced portion makes it clear that aftercounseling sessions both the parties came to the conclusion that the differences have arisen

between them, therefore, they cannot be live together and respondent No.2 was agreed to file a petition for divorce by mutual consent under Section

13(B) of the Hindu Marriage Act, 1955. In the context of the aforesaid understanding which has been arises between the parties, Mahila Thana

Indore filed a closure report of the matter on 13/12/2016.

14. However, on 06/01/2017, the respondent lodged FIR at Police-Station Lasudiya for the same ground by suppressing the proceedings of Mahila

Thana, Indore. In the FIR lodged at Police-Station-Lasudiya she alleged that even after 2-3 counseling sessions, the applicants persisted for their

demand of dowry, which is absolutely contrary to the proceedings held at Mahila Thana, Indore. From the proceeding of Mahila Thana, Indore, it is

transpired that after 2-3 days of the marriage respondent No.2 stayed with her husband-Anup Agrawal and sister-in-law-Alka Agrawal at Indore.

Applicant No.1-Anup Agrawal due to his transfer left to Ahemdabad and then to Pune alone for the reasons that respondent No.2 was working at

ICICIU Bank, Indore and she did not go with him. From the impugned FIR, it is clear that respondent No.2 is living separately since 23/11/2015 and

she has not interested to live with her husband, therefore, it is difficult to believed that the applicants subjected her to cruelty on the pretext of demand

of dowry. From the statement of the respondent No.2 given before the Mahila Thana, Indore, it is apparent that applicant Nos. 2 & 4 never lived with

her, therefore, it cannot be accepted that they made any demand of dowry with the respondent No.2 and ill treated her with regard to the fulfillment of

their demand. After counseling at Mahila Thana, Indore respondent No.2 and applicant No.1-Anup Agrawal, agreed that they will file a petition for

divorce in writing and the parties were rided for court proceedings for the reason that the respondent No.2 does not want to live with applicant No.1

anymore. It is also pertinent to note that the respondent No.2 has already filed a divorce petition against applicant No.1 at family Court, Indore. While

Mahila Thana, Indore has filed a closure report on the complaint filed by respondent No.2, then registration of FIR against the applicants for the same

ground at Police-Station Lasudiya is nothing but a sheer abuse of the process of law.

15. Under these circumstances, the present application under Section 482 of the Cr.P.C. is allowed. Consequently, FIR bearing Crime No. 14/2017

dated 06/01/2017 for commission of offence under Sections 498(A) and 323/34 of the IPC registered at Police-Station-Lasudiya, Distric-Indore and

charge-sheet dated 27/06/2017 filed in respect of the aforesaid FIR are hereby quashed.