

(2019) 03 MP CK 0051

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 25326 Of 2018

Somly Gupta And Anr

APPELLANT

Vs

State Of Madhya Pradesh & Anr

RESPONDENT

Date of Decision : 13-03-2019

Acts Referred:

Code of Criminal Procedure, 1973 — Section 161, 164, 227, 482

Code of Criminal Procedure, 1898 — Section 561A

Indian Penal Code, 1860 — Section 34, 294, 323, 394, 498A, 506

Citation : (2019) 03 MP CK 0051

Hon'ble Judges : G.S. Ahluwalia, J

Bench : Single Bench

Advocate : Ayush Chaurasiya, Vikrant Sharma, Prashant Sharma, Devendra Sharma

Final Decision : Allowed

Judgement

This petition under Section 482 of CrPC has been filed for quashing the FIR, dated 21/12/2017 in Crime No.954/2017, registered at Police Station Dabra, District Gwalior for offence under Sections 498-A, 323, 294, 506 read with Section 34 of IPC.

It is submitted by the counsel for the applicants that during the pendency of this petition, the police has filed the charge sheet. However, in the light of the judgment passed by the Supreme Court in the case of Satish Mehra Vs. State (NCT of Delhi) reported in (2012) 13 SCC 614, Anand Kumar Mohatta and Anr. Vs. State (Govt. of NCT of Delhi) Department of Home and Another passed in CRIMINAL APPEAL No.1395 OF 2018 [Arising out of SLP (Crl.) No. 3730 of 2016] by judgment dated 15th November, 2018 and the judgment passed by a Coordinate Bench of this Court in Ravikant Dubey and Others Vs. State of M.P. and another reported in 2014 Cr.L.R. (M.P.) 162, this petition can be decided on merits.

The Supreme Court in the case of Satish Mehra (supra) has held as under:-

"13. Though a criminal complaint lodged before the court under the provisions of Chapter XV of the Code of Criminal Procedure or an FIR lodged in the police station under Chapter XII of the Code has to be brought to its logical conclusion in accordance with the procedure prescribed, power has been conferred under Section 482 of the Code to interdict such a proceeding in the event the institution/continuance of the criminal proceeding amounts to an abuse of the process of court. An early discussion of the law in this regard can be found in the decision of this Court in *R.P. Kapur v. State of Punjab* wherein the parameters of exercise of the inherent power vested by Section 561-A of the repealed Code of Criminal Procedure, 1898 (corresponding to Section 482 CrPC, 1973) had been laid down in the following terms: (AIR p. 869, para 6)

(i) Where institution/continuance of criminal proceedings against an accused may amount to the abuse of the process of the court or that the quashing of the impugned proceedings would secure the ends of justice;

(ii) where it manifestly appears that there is a legal bar against the institution or continuance of the said proceeding e.g. want of sanction;

(iii) where the allegations in the first information report or the complaint taken at their face value and accepted in their entirety, do not constitute the offence alleged; and

(iv) where the allegations constitute an offence alleged but there is either no legal evidence adduced or evidence adduced clearly or manifestly fails to prove the charge.

14. 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 may be, *prima facie* do not disclose a triable offence, there can be reason as to why the accused should be made to suffer the agony of a legal proceeding that more often than not gets protracted. A prosecution which is bound to become lame or a sham ought to be interdicted in the interest of justice as continuance thereof will amount to an abuse of the process of the law. This is the core basis on which the power to interfere with a pending criminal proceeding has been recognized to be inherent in every High Court. The power, though available, being extra ordinary in nature has to be exercised sparingly and only if the attending facts and circumstances satisfy the narrow test indicated above, namely, that even accepting all the allegations levelled by the prosecution, no offence is disclosed. However, if so warranted, 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 the charge against the accused. In fact the power to quash a proceeding after framing of charge would appear to be somewhat wider as, at that stage, the materials revealed by the investigation carried out usually comes on record and such materials can be looked into, not for the purpose of determining the guilt or innocence of the accused but for the

purpose of drawing satisfaction that such materials, even if accepted in its entirety, do not, in any manner, disclose the commission of the offence alleged against the accused.

15. The above nature and extent of the power finds an exhaustive enumeration in a judgment of this Court in *State of Karnataka v. L. Muniswamy* (1977) 2 SCC 699 which may be usefully extracted below : (SCC pp. 702-03)

"7. The second limb of Mr Mookerjee's argument is that in any event the High Court could not take upon itself the task of assessing or appreciating the weight of material on the record in order to find whether any charges could be legitimately framed against the respondents. So long as there is some material on the record to connect the accused with the crime, says the learned counsel, the case must go on and the High Court has no jurisdiction to put a precipitate or premature end to the proceedings on the belief that the prosecution is not likely to succeed. This, in our opinion, is too broad a proposition to accept. Section 227 of the Code of Criminal Procedure, 2 of 1974, provides that:

* * *

This section is contained in Chapter XVIII called "Trial Before a Court of Session". It is clear from the provision that the Sessions Court has the power to discharge an accused if after perusing the record and hearing the parties he comes to the conclusion, for reasons to be recorded, that there is not sufficient ground for proceeding against the accused. The object of the provision which requires the Sessions Judge to record his reasons is to enable the superior court to examine the correctness of the reasons for which the Sessions Judge has held that there is or is not sufficient ground for proceeding against the accused. The High Court therefore is entitled to go into the reasons given by the Sessions Judge in support of his order and to determine for itself whether the order is justified by the facts and circumstances of the case. Section 482 of the New Code, which corresponds to Section 561-A of the Code of 1898, provides that:

* * *

In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realization of the object and purpose of the

provision which seeks to save the inherent powers of the High Court to do justice, between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction."

16. It would also be worthwhile to recapitulate an earlier decision of this court in Century Spinning & Manufacturing Co. vs. State of Maharashtra (1972) 3 SCC 282 noticed in L. Muniswamy's case (Supra) holding that: (SCC p. 704, para 10)

"10 the order framing a charge affects a person's liberty substantially and therefore it is the duty of the court to consider judicially whether the materials warrant the framing of the charge. It was also held that the court ought not to blindly accept the decision of the prosecution that the accused be asked to face a trial."

The Supreme Court in the case of Anand Kumar Mohatta (supra) has held as under:-

"15. First, we would like to deal with the submission of the learned Senior Counsel for the Respondent No.2 that once the charge sheet is filed, petition for quashing of FIR is untenable. We do not see any merit in this submission, keeping in mind the position of this Court in Joseph Salvaraj A. v. State of Gujarat (2011) 7 SCC 59. In the case of Joseph Salvaraj A. (supra), this Court while deciding the question whether the High Court could entertain the 482 petition for quashing of FIR, when the charge sheet was filed by the police during the pendency of the 482 petition, observed: -

"16. Thus, from the general conspectus of the various sections under which the appellant is being charged and is to be prosecuted would show that the same are not made out even prima facie from the complainant's FIR. Even if the charge-sheet had been filed, the learned Single Judge could have still examined whether the offences alleged to have been committed by the appellant were prima facie made out from the complainant's FIR, charge- sheet, documents, etc. or not."

16. Even otherwise it must be remembered that the provision invoked by the accused before the High Court is Section 482 Cr.P.C and that this Court is hearing an appeal from an order under Section 482 of Cr.P.C. Section 482 of Cr.P.C reads as follows: -

"482. Saving of inherent power of the High Court.-Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

17. There is nothing in the words of this Section which restricts the exercise of the power of the Court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It is settled principle of law that the High court can exercise jurisdiction under Section 482 of Cr.P.C even when the discharge application is pending with the trial court. Indeed, it would be a

travesty to hold that proceedings initiated against a person can be interfered with at the stage of FIR but not if it has advanced, and the allegations have materialized into a charge sheet. On the contrary it could be said that the abuse of process caused by FIR stands aggravated if the FIR has taken the form of a charge sheet after investigation. The power is undoubtedly conferred to prevent abuse of process of power of any court."

In the case of Ravikant Dubey (supra), a Co-ordinate Bench of this Court has held as under :-

"8. In view of the above, the questions of law which requires consideration are as follows: (i) Whether petition preferred by the petitioners under Section 482 of the Code for quashing the FIR can be entertained, when trial has been started and evidence of some witnesses have also been deposed before the Trial Court ? (ii) Whether evidence recorded by Trial Court during trial can be considered for quashing the FIR ? (iii) Whether any ground is available for quashing the FIR in view of the facts and laws available on record ? Regarding question of law no. (i) :- 9. Learned Senior Counsel for the petitioners submitted that inherent powers can be used at any stage to prevent abuse of process of any Court or otherwise to secure the ends of justice. It makes no difference whether trial has been started or not and whether some evidence has been deposed before the Trial Court or not. In support of his contention he placed reliance in the case of Sathish Mehra (supra) and Joseph Salvaraja Vs. State of Gujarat and others, (2011) 7 SCC 59.

* * * *

12. Therefore, in the considered view of this Court this petition is maintainable also even when trial is at advance stage. The question is answered accordingly."

Thus, it is clear that the petition under Section 482 of CrPC cannot be dismissed merely on the ground that the trial has been started or even some witnesses have been examined. Thus, this petition is considered on merits.

The necessary facts for the disposal of the present petition in short are that the applicant No.1 is the sister-in-law of the complainant/respondent No.2 and the applicant No.2 is the husband of the applicant No.1. The respondent No.2 had made a written complaint to the SHO, Police Station Dabra, District Gwalior, making allegations of demand of dowry and harassment against her husband, father-in-law and mother-in-law. The written complaint made by the respondent No.2 is as under:-

सेवा में

थाना प्रभारी महोदय

थाना डबरा

विषय पति एवं सास, व ससुर के द्वारा दहेज के लिये प्रताड़ित एवं मारपीट करने के संबंध में रिपोर्ट वावत्

महोदय

निवेदन है कि प्रथियां भावना गुप्ता की शादी दिनांक 29/4/17 क हिन्दू रीति रिवाज से हष गुप्ता पुत्र मुन्नालाल गुप्ता उम्र 33 साल नि0 206-बी विवेकानन्द कालोनी उज्जैन के साथ समपन्न हुई थी शादी के बाद कुछ दिन तक सब कुछ ठीक ठाक रहा दिनांक 27/09/17 को मेरे पति हष गुप्ता एवं मैं उज्जैन से डबरा अपने घर आई थी रात को हष गुप्ता मेरे घर रुके थे एवं मेरे मायके वालो से हष बोला कि आपने शादी में हमारी हैशियत से बहुत कम दहेज दिया है आप दस लाख रुपये एवं एक्सयूव्ही 500 गाडी दीजिये तभी मैं आपकी बच्ची को लेकर जाऊंगा तभी मेरे माता पिता ने हष के माता पिता को फोन लगाया एवं इस संबंध में चचा की तो मेरी सास श्रीमति डां.राजेश गुप्ता एवं श्री मुन्नालाल गुप्ता ने भी बुला के आप दस लाख रुपये एवं एक्सयूव्ही 500 गाडी दोगे तभी आपकी लडकी को वापस लेकर जायेगे इसी बात पर से हमारा विवाद हुआ तो हष गुप्ता ने मां बहिन की गंदी गंदी गांलियां दी मैने गाली देने से मना किया तो मेरी मारपीट कर उज्जैन चला गया एवं मुझे यही छोड गया बाद मै कई वार मेरे परिवार वालो ने मेरे ससूराल वालो के समझाने की कोशिश की परंतु वो लोग नही माने परिवार परमश केन्द्र उज्जैन मैं काउसलिंग भी करवाई परंतु कोई नतीजा नही निकला मेरी शादी मैं दिया हुआ घरेलू सामान एवं सोने चांदी के गहने मरी ससूराल मे ही रह गये है जिन्हे वापस नहीं लौटाया है एवं मारपीट कर मेरे पति एवं सास व ससूर ने घर उज्जैन से निकाल दिया एवं बोले की आज के बाद विना दहेज के उज्जैन हमारे घर आई तो जान से खत्म कर देगे अतः श्रीमान जी से निवेदन है कि मेरे पति एवं सास ससूर पर कार्यवाही करने की कृपा करे।

प्राथिया

भावना गुप्ता पत्नी हष गुप्ता

पुत्री रामप्रकाश गुप्ता नि0

बल्ला का डेरा झासी रोड

डबरा मो0न0 9752397775

Thus, from the plain reading of the complaint, it is clear that neither the applicants were named in the complaint nor any allegations were made against them. Thereafter, the statement of the respondent No.2 was recorded under Section 161 of CrPC. In the said statement, it was stated by her that she was married to Harsh Gupta on 29/04/2017 as per Hindu rites and rituals. A few days after her marriage everything was normal. On 27/09/2017, she along with her husband came to her parental home and her husband had stayed along with her and contrary to the consent of the respondent No.2, he had an unnatural sexual act with her. Her husband also scolded her parents that less dowry has been given, therefore, they should pay Rs.10 lac and one XUV 500 four wheeler and only then, he shall take the complainant with him. Then, the parents of the complainant talked to the parents-in-law of the complainant at home and the parents-in-law of the complainant also demanded Rs.10 lac and one XUV 500 car and threatened that only thereafter the complainant would be taken back to her matrimonial house. On this issue, there was a hot talk between the parties. Her husband started abusing her. When she objected, she was beaten by him and went back. Thereafter, on several occasions the complainant had tried to persuade her in-laws but they did not agree and accordingly, a conciliation had also taken place in Parivar Parmarsh Kendra,

Ujjain, but there was no result. After the marriage, the applicants as well as her husband, mother-in-law and parents-in-law had started passing taunts. The articles given in the marriage are still in her matrimonial house, which have not been returned and she has been turned out of her matrimonial house by her husband and parents-in-law. Thus, in the statement recorded under Section 161 of CrPC, no allegation was made except by mentioning that the applicants had also passed taunts after the marriage. The statement under Section 164 of CrPC was recorded in which, she has stated that immediately after the marriage the applicants along with other persons started scolding that less dowry has been given and she was forced to bring a cash of Rs.10 lac and one XUV 500 car. Thereafter, the complainant and her husband went to honeymoon and thereafter, when they came back then the applicants and her in-laws scolded her and threatened that she would be allowed to stay in her matrimonial house only when she brings dowry. Thereafter, in her entire statements recorded under Section 164 of CPC, no allegation was made against the applicants and all the allegations were made against her husband and her parents-in-law. Thus, if these three documents are compared, then it is clear that in the written complaint made in the Police Station Dabra, District Gwalior, no allegation whatsoever was made against the applicants. In the statement recorded under Section 161 of CPC, it was stated that everything was normal for a few days of the marriage and thereafter, the allegations were made against her husband and her parents-in-law except bald, vague and omnibus allegations. In the statement under Section 161 of CrPC, it is mentioned that the applicants also passed taunts after marriage, whereas in her statement under Section 164 of CrPC, it is alleged that immediately after the marriage and prior to going to honeymoon, the applicants along with other in-laws of the complainant, had demanded Rs.10 lac and one XUV 500 Car, whereas in her statement under Section 161 of CPC, she has stated that the said demand was made by her husband when she came back to her parental home on 27/09/2017. Thus, there is material discrepancy that whether the demand of Rs.10 lac and one XUV 500 Car was made in the month of May, 2017 or not ?

It is the next contention of the Counsel for the applicants that they are the residents of Mumbai, and they have also annexed their Marriage Registration Certificate, Passports, the certificate issued by the employer of applicant no.2, to support their contention. This fact has not been denied by the Counsel for the respondent no.2.

The Supreme Court by order dated 21-8-2018 passed in the case of K. Subba Rao and others Vs. The State of Telangana Rep. By its Department of Home and others (Criminal Appeal No. 1045 of 2018), has held as under :-

"5. Criminal Proceedings are not normally interdicted by us at the interlocutory state unless there is an abuse of process of a Court. This Court, at the same time, doesnot hesitate to interfere to secure the ends of justice. See State of Haryana Vs. Bhajan Lal 1992 Supp. (1) SCC 335. The Courts should be careful in

proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out. See *Kansraj Vs. State of Punjab and others* (2000) 5 SCC 207 and *Kailash Chandra Agrawal and another Vs. State of Uttar Pradesh and others* (2014) 16 SCC 551."

The Supreme Court in the case of *Kansraj Vs. State of Punjab*, (2000) 5 SCC 207, has held as under :

"In the light of the evidence in the case we find substance in the submission of the learned counsel for the defence that Respondents 3 to 5 were roped in the case only on the ground of being close relations of Respondent 2, the husband of the deceased. For the fault of the husband, the in-laws or the other relations cannot, in all cases, be held to be involved in the demand of dowry. In cases where such accusations are made, the overt acts attributed to persons other than the husband are required to be proved beyond reasonable doubt. By mere conjectures and implications such relations cannot be held guilty for the offence relating to dowry deaths. A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their over-enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused as appears to have happened in the instant case."

The Supreme Court in the case of *Monju Roy Vs. State of West Bengal*, reported in (2015) 13 SCC 693, has held as under:

"8.While we do not find any ground to interfere with the view taken by the courts below that the deceased was subjected to harassment on account of non-fulfillment of dowry demand, we do find merit in the submission that possibility of naming all the family members by way of exaggeration is not ruled out. In *Kans Raj v. State of Punjab*, (2000) 5 SCC 207, this Court observed : (SCC p. 215, para 5)

"5.....A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their over enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused as appears to have happened in the instant case."

The Court has, thus, to be careful in summoning distant relatives without there being specific material. Only the husband, his parents or at best close family members may be expected to demand dowry or to harass the wife but not

distant relations, unless there is tangible material to support allegations made against such distant relations. Mere naming of distant relations is not enough to summon them in absence of any specific role and material to support such role.

9. In *Raja Lal Singh vs. State of Jharkhand*, (2007) 15 SCC 415, it was observed : (SCC p. 419, para 14)

"14. No doubt, some of the witnesses e.g. PW 5 Dashrath Singh, who is the father of the deceased Gayatri, and PW 3 Santosh Kr. Singh, brother of the deceased, have stated that the deceased Gayatri told them that dowry was demanded by not only Raja Lal Singh, but also the appellants Pradip Singh and his wife Sanjana Devi, but we are of the opinion that it is possible that the names of Pradip Singh and Sanjana Devi have been introduced only to spread the net wide as often happens in cases like under Sections 498-A and 394 IPC, as has been observed in several decisions of this Court e.g. in *Kamesh Panjiyar v. State of Bihar* [(2005) 2 SCC 388], etc. Hence, we allow the appeal of Pradip Singh and Sanjana Devi and set aside the impugned judgments of the High Court and the trial court insofar as it relates to them and we direct that they be released forthwith unless required in connection with some other case."

* * * * *

11. The Court has to adopt pragmatic view and when a girl dies an unnatural death, allegation of demand of dowry or harassment which follows cannot be weighed in golden scales. At the same time, omnibus allegation against all family members particularly against brothers and sisters and other relatives do not stand on same footing as husband and parents. In such case, apart from general allegation of demand of dowry, the court has to be satisfied that harassment was also caused by all the named members."

The Supreme Court in the case of *Chandralekha & Ors. v. State of Rajasthan & Anr.* reported in 2013 (1) UC 155 has held as under:-

"8. We must, at the outset, state that the High Court's view on jurisdiction meets with our approval and we confirm the view. However, after a careful perusal of the FIR and after taking into consideration the attendant circumstances, we are of the opinion that the FIR lodged by respondent 2 insofar as it relates to appellants 1, 2 and 3 deserves to be quashed. The allegations are extremely general in nature. No specific role is attributed to each of the appellants. Respondent 2 has stated that after the marriage, she resided with her husband at Ahmedabad. It is not clear whether appellants 1, 2 and 3 were residing with them at Ahmedabad. The marriage took place on 9/7/2002 and respondent 2 left her matrimonial home on 15/2/2003 i.e. within a period of seven months. Thereafter, respondent 2 took no steps to file any complaint against the appellants. Six years after she left the house, the present FIR is lodged making extremely vague and general allegations against appellants 1, 2 and 3. It is important to remember that appellant 2 is a married sister-in-law. In our opinion, such extra ordinary delay in lodging the FIR raises grave doubt about

the truthfulness of allegations made by respondent 2 against appellants 1, 2 and 3, which are, in any case, general in nature. We have no doubt that by making such reckless and vague allegations, respondent 2 has tried to rope them in this case along with her husband. We are of the confirmed opinion that continuation of the criminal proceedings against appellants 1, 2 and 3 pursuant to this FIR is an abuse of process of law. In the interest of justice, therefore, the FIR deserves to be quashed insofar as it relates to appellants 1, 2 and 3."

The Supreme Court in the case of Arnesh Kumar Vs. State of Bihar reported in (2014) 8 SCC 273 has held as under :-

"4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A IPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested. "Crime in India 2012 Statistics" published by the National Crime Records Bureau, Ministry of Home Affairs shows arrest of 1,97,762 persons all over India during the year 2012 for the offence under Section 498-A IPC, 9.4% more than the year 2011. Nearly a quarter of those arrested under this provision in 2012 were women i.e. 47,951 which depicts that mothers and sisters of the husbands were liberally included in their arrest net. Its share is 6% out of the total persons arrested under the crimes committed under the Penal Code. It accounts for 4.5% of total crimes committed under different sections of the Penal Code, more than any other crimes excepting theft and hurt. The rate of charge-sheeting in cases under Section 498-A IPC is as high as 93.6%, while the conviction rate is only 15%, which is lowest across all heads. As many as 3,72,706 cases are pending trial of which on current estimate, nearly 3,17,000 are likely to result in acquittal."

In the case of Preeti Gupta Vs. State of Jharkhand reported in AIR 2010 SC 3363 it has been held by the Supreme Court as under :

"34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. 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 of husband's close relations 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 scrutinised with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of an amicable settlement altogether. The process of suffering is extremely long and painful.

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39. When the facts and circumstances of the case are considered in the background of legal principles set out in the preceding paragraphs, then it would be unfair to compel the appellants to undergo the rigmarole of a criminal trial. In the interest of justice, we deem it appropriate to quash the complaint against the appellants. As a result, the impugned judgment of the High Court is set aside. Consequently, this appeal is allowed."

In the case of Neelu Chopra and another Vs. Bharti reported in (2009) 10 SCC 184, it has been held by the Supreme Court, as under :-

"9. In order to lodge a proper complaint, mere mention of the sections and the language of those sections is not the be all and end all of the matter. What is required to be brought to the notice of the court is the particulars of the offence committed by each and every accused and the role played by each and every accused in committing of that offence.

10. When we see the complaint, the complaint is sadly vague. It does not show as to which accused has committed what offence and what is the exact role played by these appellants in the commission of offence. There could be said something against Rajesh, as the allegations are made against him more precisely but he is no more and has already expired. Under such circumstances, it would be an abuse of the process of law to allow the prosecution to continue against the aged parents of Rajesh, the present appellants herein, on the basis of a vague and general complaint which is silent about the precise acts of the appellants."

Thus, it is clear that unless and until, there are specific allegations against the near, dear or distant relatives of the husband, the relatives should not be compelled to go through the ordeal of trial. The vague and omnibus allegations are not sufficient to rope the near and dear relatives of the husband in a criminal case. If the allegations made against the applicants are

considered, then it would be clear that the complainant had not made any allegation against the applicants in her written complaint made to the S.H.O., Police Station Dabra, Distt. Gwalior, therefore, there is no allegation against the applicants in the F.I.R. and accordingly, they were not arrayed as an accused in the F.I.R. Subsequently, the statements were developed and in the statement recorded under Sections 161 and 164 of Cr.P.C., omnibus and vague allegations were made against the applicants and even this Court has already found that they are not reliable because of material discrepancies. Under these circumstances, this Court is of the considered opinion, that the allegations made against the applicants are vague, omnibus and general in nature, not warranting the prosecution of the applicants. Thus, in the considered opinion of this Court, unless and until, a specific allegation is made against a near and dear distant relative of the husband, he/she cannot be prosecuted for offence under Section 498-A of I.P.C. In the present case also, there is no specific allegation against the applicants, so as to compel them to face the Trial.

Accordingly, FIR, dated 21/12/2017 in Crime No.954/2017, registered at Police Station Dabra, District Gwalior for offence under Sections 498-A, 323, 294, 506 read with Section 34 of IPC as well as all subsequent criminal proceedings including the charge-sheet and the prosecution, qua the applicants is hereby quashed.

This application succeeds and is hereby Allowed.