

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF NOVEMBER, 2022

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.13425 OF 2022 (GM – RES)

BETWEEN:

- 1 . VENU AKHIL KUMAR PARAKALA
S/O SUDHIR KUMAR PARAKALA
AGED 27 YEARS
RESIDING AT FLOOR NO.3
748, 5TH MAIN ROAD
NR. CAPITOL SCHOOL, RBI LAYOUT
JP NAGAR, 7TH PHASE
BENGALURU – 560 078.
- 2 . RADHA TATAVARTI
W/O SUDHIR KUMAR PARAKALA
AGED 52 YEARS
RESIDING AT NO.326, G/F LIG
SEC-14, PKT-3 PHASE-2
DWARKA, SOUTH WEST DELHI
DELHI – 110 075.
- 3 . SUDHIR KUMAR PARAKALA
S/O LATE VENU BABU PARAKALA
AGED 56 YEARS
RESIDING AT NO.326, G/F LIG
SEC-14, PKT-3 PHASE-2,
DWARKA SOUTH WEST DELHI
DELHI – 110 075.

- 4 . SIDHI SHANKAR KAUSTUBH PARAKALA @
P.S.S.KAUSTUBH JAIN
S/O SUDHIR KUMAR PARAKALA
AGED 19 YEARS
RESIDING AT
C/O RADHA TATAVARTI
FLAT NO. 502,
SHAMROCK APARTMENT
BIRAMGUDA, KAMAN ROAD
R C PURAM POST
TELANGANA – 502 032.

... PETITIONERS

(BY SRI MANMOHAN P.N., ADVOCATE)

AND:

- 1 . STATE OF KARNATAKA
STATION HOUSE OFFICER
WOMEN POLICE STATION
EAST ZONE,
BENGALURU – 560 038.
- 2 . SAHANA SHREENATH
W/O VENU AKHIL KUMAR PARAKALA
AGED 28 YEARS
RESIDING AT 502, 15TH CROSS
2ND STAGE, INDIRANAGAR
BENGALURU – 560 038.

... RESPONDENTS

(BY SMT.K.P.YASHODHA, HCGP FOR R1;
SRI UDAYA HOLLA, SR.ADVOCATE A/W
SRI VIVEK HOLLA, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND
227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF

CR.P.C., PRAYING TO QUASH THE COMPLAINT DTD 05.06.2022 FILED BY THE R2 PRODUCED AS ANNEXURE-A AND QUASH THE FIR DTD 05.06.2022 REGISTERED IN CRIME NO.87/2022 BY THE R1 PRODUCED AS ANNEXURE-B.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 18.11.2022, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The petitioners/accused 1 to 4 are before this Court calling in question registration of crime in Crime No.87 of 2022 for offences punishable under Sections 498A, 323, 504, 506 & 34 of the IPC, Sections 3 and 4 of the Dowry Prohibition Act, 1961 ('the D.P.Act' for short) and Section 66E of the Information Technology Act, 2008.

2. Heard Sri P.N.Manmohan, learned counsel appearing for the petitioners, Smt. K.P. Yashodha, learned High Court Government Pleader appearing for respondent No.1 and Sri Udaya Holla, learned senior counsel appearing for respondent No.2.

3. Brief facts that lead the petitioners to this Court in the subject petition, as borne out from the pleadings, are as follows:-

The marriage between the 1st petitioner and the 2nd respondent/complainant takes place on 31-03-2021 after they met through a matrimonial website. The relationship between the petitioners and the 2nd respondent turned to sore too soon which leads the complainant to register a complaint on 5-06-2022 in Crime No.87 of 2022 for offences punishable under Sections 498A, 323, 504, 506 AND 34 of the IPC, Sections 3 and 4 of the D.P. Act and Section 66E of the Information Technology Act, 2008. Registration of the crime leads the petitioners to this Court in the subject petition.

4. The learned counsel for the petitioner would contend that there is no evidence of demand of dowry or harassment meted out by the husband or any member of his family to the complainant for the purpose of demand of dowry. He would contend that the couple after marriage were residing at Kolhapur, Maharashtra where the 2nd respondent/complainant was pursuing her MD course. The 2nd respondent had stayed with petitioners 2, 3 and 4 at Delhi hardly for about 7 days on three occasions and, therefore, in a dispute between the husband and the wife other members of the family are

dragged in without any rhyme or reason. Even the brother of husband is roped in notwithstanding the fact that he is not even aware of what has been happening in the family. Insofar as the husband is concerned, the learned counsel would contend that it is the quarrel between the husband and the wife which in some instances have gone wrong which would not mean that the husband also would be guilty of any ingredients of offences under Sections 498A or 323 of the IPC. He would seek quashment of the entire proceedings.

5. On the other hand, the learned senior counsel representing the 2nd respondent would refute the submissions to contend that the husband has tortured the wife so much that she could not stay with him for 7 to 8 months after the marriage and the same is done at the instigation of the parents of the husband and, therefore, would contend that the proceedings against all must be permitted to be continued. Insofar as the petitioner No.4 is concerned, he would admit that there is no allegation against him for him to be dragged into the complaint. He would seek dismissal of the petition except against petitioner No.4.

6. I have given my anxious consideration to the submissions made by the learned counsel for the respective parties and have perused the material on record.

7. The factum of marriage between the 1st petitioner and the 2nd respondent on a particular date is not in dispute. What becomes germane to be noticed is the complaint, as the entire issue now springs from it. Gist of the complaint narrated in the FIR reads as follows:

“.....”

“ಪಿರ್ಯಾದುದಾರರಾದ ಶ್ರೀಮತಿ ಡಾ.ಸಹನ ಶ್ರೀನಾಥ್ ರವರು ಠಾಣೆಗೆ ಹಾಜರಾಗಿ ನೀಡಿದ ದೂರಿನ ಸಾರಾಂಶವೇನೆಂದರೆ, ಪಿರ್ಯಾದುದಾರರಿಗೆ ಎ1 ಆರೋಪಿಯಾದ ವೇಣು ಅಖಿಲ್ ಪರಕಲ ರವರೊಂದಿಗೆ ದಿನಾಂಕ:-31/03/2021 ರಂದು ಎಲಿಂ ರೆಸಾರ್ಟ್ ಸರ್ಜಾಪುರ ಇಲ್ಲಿ ಹಿಂದೂ ಸಂಪ್ರದಾಯದಂತೆ ಮದುವೆ ನೆರವೇರಿದ್ದು, ಈ ಮದುವೆಯು ಮಾರ್ಚ್ 29 ರಿಂದ ಏಪ್ರಿಲ್ 2/2021 ರ ವರೆಗೆ ನಡೆದಿದ್ದು, ಎಲ್ಲಾ ಖರ್ಚು ವೆಚ್ಚಗಳನ್ನು ಪಿರ್ಯಾದುದಾರರ ತಂದೆಯವರೇ ಭರಿಸಿರುತ್ತಾರೆ. ಮದುವೆಗೆ ಮುಂಚೆ ಎ1 & ಎ3 ಆರೋಪಿಗಳು ಪ್ರೀ ವೆಡ್ಡಿಂಗ್ ಶೂಟ್ ಮಾಡಿಸಿ, ಮೇಕಪ್ ಮ್ಯಾನ್ ಖರ್ಚು ಹಾಗೂ ಎ3 ಆರೋಪಿಗೆ ಸೂಟ್, ಮದುವೆ ವೆಲ್ ಕಮ್ ಮಾಡೋಕೆ ಎ2 ಆರೋಪಿಗೆ ಬೆಲೆ ಬಾಳುವ ಸೀರೆ, 2 ಚೆನ್ನದ ಬಳೆ, ಹಾಗೂ ಬೆಳ್ಳಿಯ ಬಿಂದಿಗೆ ಕೊಡಬೇಕೆಂದು ಒತ್ತಾಯ ಮಾಡಿದ್ದು, ಅದರಂತೆ ಪಿರ್ಯಾದುದಾರರ ತಂದೆಯವರು ಸೂಟ್, ಸೀರೆ ಮತ್ತು ಸ್ಟೀಲ್ ಬಿಂದಿಗೆಯನ್ನು ನೀಡಿ ಮದುವೆ ಮಾಡಿರುತ್ತಾರೆ. ಮದುವೆಯ ವರದಕ್ಷಿಣೆ ಮಾತುಕತೆ ಹಾಗೂ ವರದಕ್ಷಿಣೆ ನೀಡಿರುವುದು ಪಿರ್ಯಾದುದಾರರ ತಂದೆಯ ಮನೆಯಾದ ವಾಸ ನಂ.-502, 15ನೇ ಕ್ರಾಸ್, ಇಂದಿರಾನಗರ 2ನೇ ಹಂತ, ಬೆಂಗಳೂರು ಆಗಿರುತ್ತದೆ.

ಮದುವೆಯ ರಿಸಪ್ಷನ್ ದಿನ ರಾತ್ರಿ ಎ2 & ಎ3 ಆರೋಪಿಗಳು 2 ಕೆ.ಜಿ ಚೆನ್ನದ ಆಭರಣಗಳು, 4 ಬೆಳ್ಳಿಯ ಬಿಂದಿಗೆಗಳನ್ನು ನೀಡಬೇಕೆಂದು ಪಿರ್ಯಾದುದಾರರ ತಂದೆ ತಾಯಿಗೆ ಒತ್ತಾಯ ಮಾಡಿದ್ದು ಇವುಗಳನ್ನು ನೀಡಿಲ್ಲವೆಂದು ಅವಾಚ್ಯವಾಗಿ ಬೈದು ಗಲಾಟೆ ಮಾಡಿರುತ್ತಾರೆ. ನಂತರ ಪಿರ್ಯಾದುದಾರರು ದೆಹಲಿಗೆ ಹೋಗಿದ್ದು, ಅಲ್ಲಿಂದ ಹನಿಮೂನ್ಗೆ ಹೋದ

ಸಂದರ್ಭದಲ್ಲಿ ಎ2 & ಎ3 ಆರೋಪಿಗಳು ಪಿರ್ಯಾದುದಾರರಿಗೆ ವೀಡಿಯೋ ಕಾಲ್ ಮಾಡಿ ನಿನ್ನ ತಂದೆ ಮೋಸಗಾರ, ಸುಳ್ಳುಗಾರ, ನಿನಗೆ ಸರಿಯಾಗಿ ತೆಲಗು ಮಾತನಾಡಲು ಬರಲ್ಲವೆಂದು ಬೈಯುತ್ತಿದ್ದರೂ ಸಹ ಎ1 ಆರೋಪಿಯು ಇದನ್ನೆಲ್ಲಾ ನೋಡಿಕೊಂಡು ಸುಮ್ಮನೇ ಇದ್ದು, ಹಾಗೂ ಎ2 & ಎ3 ಆರೋಪಿಗಳು ನಿನ್ನ ತಂದೆಗೆ ಇರುವ ಆದಾಯಕ್ಕೆ ತಕ್ಕಂತೆ ನಮಗೆ ಮದುವೆಯಲ್ಲಿ ಗಿಫ್ಟ್ ಹಾಗೂ 2 ಕೆ.ಜಿ. ಚಿನ್ನ, ಬೆಳ್ಳಿಯ ಬಿಂದಿಗೆ, ಎ2 ಆರೋಪಿಗೆ 2 ಬಳೆ ಕೊಡಲಿಲ್ಲ ಎಂದು ಇದೇ ಕಾರಣವನ್ನೇ ಮುಂದಿಟ್ಟುಕೊಂಡು ಪ್ರತಿದಿನ ಪಿರ್ಯಾದುದಾರರೊಂದಿಗೆ ಜಗಳ ಮಾಡಿ ಮಾನಸಿಕ ಕಿರುಕುಳ ನೀಡಿದಾಗ ಪಿರ್ಯಾದುದಾರರು ಅಳುತ್ತಿದ್ದಾಗ ಎ1 & ಎ4 ಆರೋಪಿಗಳು ನೀನು ಅಳುವುದಾದರೆ ಬಾತ್‌ರೂಮಿನಲ್ಲಿ ಹೋಗಿ ಅಳು ಎಂದು ನೋಯಿಸಿರುತ್ತಾರೆ. ಈ ವಿಚಾರ ತಿಳಿದ ಪಿರ್ಯಾದುದಾರರ ತಂದೆ ತಾಯಿಯರು ತಮ್ಮ ಮಗಳ ನೆಮ್ಮದಿಗೋಸ್ಕರ ದಿನಾಂಕ:-12/07/2021 ರಂದು ಎ2 & ಎ3 ಆರೋಪಿಗಳಿಗೆ ದೊಡ್ಡ ಬೆಳ್ಳಿಯ ಬಟ್ಟಲನ್ನು ಕೊಟ್ಟಿರುತ್ತಾರೆ. ನಂತರವೂ ಸಹ ಆರೋಪಿಗಳು ಸುಮಾರು 25,750/- ಬೆಲೆಯ ದೊಡ್ಡ ವೆಂಕಟೇಶ್ವರನ ಫೋಟೋವನ್ನು ಒತ್ತಾಯ ಮಾಡಿ ಪಡೆದಿದ್ದು, ನಂತರ ಪಿರ್ಯಾದುದಾರರು ಎಂ.ಡಿ ಮಾಡಲು ಮಹಾರಾಷ್ಟ್ರದ ಕಲ್ಲಾಪುರಕ್ಕೆ ಹೋಗಿದ್ದ ಸಂದರ್ಭದಲ್ಲಿ ಎ1 ಆರೋಪಿಯು ಎ2 ಆರೋಪಿಯ ಕುಮ್ಮಕ್ಕಿನಿಂದ ಪಿರ್ಯಾದುದಾರರಿಗೆ ನಿಮ್ಮ ತಂದೆಯ ಆಸ್ತಿಯ ಸಂಪೂರ್ಣ ವಿವರ ನನಗೆ ಬೇಕೆಂದು ಒತ್ತಾಯ ಮಾಡಿ ವಿವರಗಳನ್ನು ಪಡೆದುಕೊಂಡಿದ್ದು, ಈ ಬಗ್ಗೆ ಪಿರ್ಯಾದುದಾರರ ತಂದೆ ಎ2 ಆರೋಪಿಗೆ ಫೋನ್ ಮಾಡಿ ಕೇಳಿದಾಗ ಆತನು ಚಿನ್ನ ಹಾಗೂ ಬೆಳ್ಳಿಯ ಬಿಂದಿಗೆ ಕೊಟ್ಟಿಲ್ಲ ಹಾಗೂ ಮದುವೆಯಲ್ಲಿ ಕಳಪೆ ಊಟವನ್ನು ಕೊಟ್ಟಿದ್ದೀರಾ ಭಿಕ್ಷುಕ ನೀನು ಎಂದು ಹೀಯಾಳಿಸಿ ಮಾಡನಾಡಿರುತ್ತಾನೆ, ಹಾಗೂ ಎ1 ಆರೋಪಿಯು ಪಿರ್ಯಾದುದಾರರ ಜೊತೆಗಿನ ವೈಯಕ್ತಿಕ ಫೋಟೋಗಳನ್ನು ಮತ್ತು ವೀಡಿಯೋಗಳನ್ನು ತೆಗೆದುಕೊಳ್ಳುತ್ತಿದ್ದು ಅವುಗಳನ್ನು ಸಾಮಾಜಿಕ ಜಾಲತಾಣದಲ್ಲಿ ಹಾಕುತ್ತೇನೆಂದು ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾನೆ. ಆರೋಪಿಗಳು ಪಿರ್ಯಾದುದಾರರು ಆಸ್ಪತ್ರೆಯಿಂದ ಮನೆಗೆ ಬಂದಾಗಲೆಲ್ಲಾ ಯಾವಾಗಲೂ ಹೆಚ್ಚಿನ ವರದಕ್ಷಿಣೆ ತರಲಿಲ್ಲವೆಂದು ಕೈಗೆ ಸಿಕ್ಕ ವಸ್ತುಗಳಿಂದ ಹೊಡೆದು ಕಿರುಕುಳ ನೀಡಿ ಪಿರ್ಯಾದುದಾರರಿಗೆ ಹಸರನ್ನು ಸಹನ ಪರಕಲ ಎಂದು ಬದಲಾವಣೆ ಮಾಡಿಕೊಳ್ಳುವಂತೆ ಒತ್ತಾಯಿಸಿರುತ್ತಾರೆ. ಎ1 ಆರೋಪಿಯು ತನ್ನ ಫೋನ್‌ನಲ್ಲಿ ಎ2 ಆರೋಪಿಗೆ ಕಾಲ್ ಡೈವರ್ಟ್ ಮಾಡಿ ಮಾತನಾಡಿಕೊಂಡಿದ್ದು, ಈ ಬಗ್ಗೆ ಪಿರ್ಯಾದುದಾರರ ಗಮನಕ್ಕೆ ಬಂದು ಪ್ರಶ್ನಿಸಿದಾಗ ಜಗಳ ಮಾಡಿ ಅವಾಚ್ಯ ಶಬ್ದಗಳಿಂದ ಬೈದು ಹೊಡೆದು ಬಡೆದು ಮಾನಸಿಕ ಹಾಗೂ ದೈಹಿಕ ಕಿರುಕುಳ ನೀಡಿರುತ್ತಾನೆ. ನಂತರ ಪಿರ್ಯಾದುದಾರರು ಆರೋಪಿಗಳಿಂದ ಮಾತನಾಡದೆ ಕೆಲವು ದಿನ ಸುಮ್ಮನಿದ್ದಾಗ ಎ2 & ಎ3 ಆರೋಪಿಗಳು ಪಿರ್ಯಾದುದಾರರ ಸಂಬಂಧಿಕರನ್ನು ಭೇಟಿ ಮಾಡಿ ಈಕೆಯು ಹೀಗೆಲ್ಲಾ ಮಾಡಿದರೆ ನಮ್ಮ ಮಗ ಮತ್ತೊಂದು ಹೆಂಗಸನ್ನು ನೋಡಿಕೊಳ್ಳುತ್ತಾನೆಂದು ಹೇಳಿದ್ದು, ನಂತರ ಎ2 & ಎ3 ಆರೋಪಿಗಳು ಪಿರ್ಯಾದುದಾರರ ತಂದೆಯ ಮನೆಗೆ ಬಂದು ಅವರ ಬಳಿ ಇನ್ನು ಮುಂದೆ ಹೀಗೆಲ್ಲಾ ಆಗುವುದಿಲ್ಲವೆಂದು ಹೇಳಿರುತ್ತಾರೆ.

ಜೂನ್ 1/2021 ರಲ್ಲಿ ಪಿರ್ಯಾದುದಾರರಿಗೆ ಕೋವಿಡ್ ಡ್ಯೂಟಿ ಇದ್ದು, ಆ ಸಮಯದಲ್ಲಿ ಎ1 ಆರೋಪಿಯು ಎ2 ಆರೋಪಿಯ ಚಾಡಿ ಮಾತನ್ನು ಕೇಳಿಕೊಂಡು ಪಿರ್ಯಾದುದಾರರಿಗೆ ಡ್ಯೂಟಿಗೆ ಹೋಗದಂತೆ ತಡೆದು, ಗಲಾಟೆ ಮಾಡಿ ಅಪಾರ್ಟ್‌ಮೆಂಟ್‌ನ 5ನೇ ಫ್ಲೋರ್‌ನಿಂದ ಕೈಯಿಂದ ತಳ್ಳಿ ಗಾಯಗೊಳಿಸಿ, ಹೊಡೆದು ಬೀಗ ಕಿತ್ತಿಟ್ಟುಕೊಂಡಿರುತ್ತಾನೆ. ವಿಚಾರ ತಿಳಿದ ಪಿರ್ಯಾದುದಾರರ ತಂದೆ ತಾಯಿಗಳು ಈ ಬಗ್ಗೆ ಕೊಲ್ಲಾಪುರ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ದೂರನ್ನು ನೀಡಿರುತ್ತಾರೆ, ಆಗ ಎ1 ಆರೋಪಿ ತನ್ನ ತಪ್ಪನ್ನು ತಿದ್ದಿಕೊಳ್ಳುತ್ತೇನೆಂದು

ಪಿರ್ಯಾದುದಾರರನ್ನು ಮನೆಗೆ ಕರೆದುಕೊಂಡು ಹೋಗಿ ಮತ್ತೆ ಅದೇ ರೀತಿ ತನ್ನ ಹಳೆಯ ಚಾಳಿಯನ್ನೇ ಮುಂದುವರೆಸಿ ಎ2 ರಿಂದ ಎ4 ಆರೋಪಿಗಳ ಚಾಡಿ ಮಾತನ್ನು ಕೇಳಿಕೊಂಡು ಪಿರ್ಯಾದುದಾರರಿಗೆ ಹೆಚ್ಚಿನ ವರದಕ್ಷಿಣೆ ಕಿರುಕುಳ ನೀಡಲು ಶುರು ಮಾಡಿರುತ್ತಾನೆ. ದಿನಾಂಕ:- 06/02/2022 ರಂದು ಪಿರ್ಯಾದುದಾರರ ಬರ್ತಡೇ ದಿನ ಕಾಪರ್ ಬಾಟಲಿಂದ ಹೊಡೆದು ಹಲ್ಲೆ ಮಾಡಿರುತ್ತಾನೆ, ಹಾಗೂ ಪಿರ್ಯಾದುದಾರರಿಗೆ ಆರೋಪಿಗಳೆಲ್ಲರೂ ನೀವು ಪೊಲೀಸು ಕೋರ್ಟು ಎಂದು ಹೋದರೆ ನಮ್ಮ ರಾಜಕೀಯ ಪ್ರಭಾವ ಬಳಸಿ ನಿಮ್ಮೆಲ್ಲರ ಜೀವನನಾಶ ಪಡಿಸುತ್ತೇವೆಂದು ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾರೆ. ಪಿರ್ಯಾದುದಾರರು ಈ ಎಲ್ಲಾ ಮಾನಸಿಕ ದೈಹಿಕ ಒತ್ತಡಕ್ಕಾಗಿ ಚಿಕಿತ್ಸೆ ಪಡೆದು ಎಂ.ಡಿ. ಪರೀಕ್ಷೆ ಪಾಸ್ ಮಾಡಿಕೊಂಡು ಬಂದಿರುತ್ತಾರೆ. ಆದ್ದರಿಂದ ಪಿರ್ಯಾದುದಾರರು ವೈದ್ಯಕೀಯ ವಿದ್ಯಾರ್ಥಿಯಾಗಿದ್ದರೂ ಸಹ ಆಕೆಗೆ ಆರೋಪಿಗಳೆಲ್ಲರೂ ಸೇರಿ ವರದಕ್ಷಿಣೆ ಕಿರುಕುಳ, ಮಾನಸಿಕ ಹಾಗೂ ದೈಹಿಕ ಕಿರುಕುಳ ಮತ್ತು ಹಲ್ಲೆ ಮಾಡಿ ಪ್ರಾಣ ಬೆದರಿಕೆ ಹಾಕಿರುವ ಎ1 ರಿಂದ ಎ4 ಆರೋಪಿಗಳ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಿ ಎಂಬಿತ್ಯಾದಿಯಾಗಿ ನೀಡಿದ ದೂರು.”

The investigation takes place after registration of the complaint and statements of parties are recorded. The allegation against the husband/1st petitioner is that he has physically abused the complainant and has also threatened that he would publish the videos of intimate moments of the husband and wife. It is, therefore, offence under Section 66E of the Information Technology Act, 2008 is invoked against the 1st petitioner. A perusal at the complaint and the statements would clearly indicate that the allegation of torture by the 1st petitioner against the 2nd respondent wife, to be unpardonable and unbearable *albeit prima facie*. The husband is said to have threatened publishing of intimate videos of the couple on the net. Therefore, there can be no question of quashing proceedings against the husband.

8. Petitioner No.4 is the brother of the husband and brother-in-law of the complainant. The 4th petitioner is a student of 19 years old and studying in Hyderabad, Telangana. The couple were residing at Kolhapur. The parents/petitioners 2 and 3 were residing at Delhi and petitioner No.4 was away for his study in Telangana. Therefore, on the face of it, petitioner No.4 is dragged into these proceedings without any rhyme or reason. The crime registered against the student has wide ramification. Without any reason, the proceedings cannot be permitted to be continued against petitioner No.4. Therefore, the proceedings against him need to be obliterated.

9. Then, who would remain to be considered, are petitioners 2 and 3. Chats through whats app that are made could be seen to be hinging towards demand of dowry. A perusal at the complaint or the statement would indicate that none of the ingredients of Section 498A of the IPC is present against the mother and father of the husband. It is the admitted fact that the mother and father reside at Delhi and the couple were residing at Kolhapur, Maharashtra, where the wife was pursuing her course in Medicine. Therefore, the

allegation, that the parents of the husband have also indulged in acts of cruelty that would become offences punishable under Sections 498A, 323, 504 and 506 and 34 of the IPC, *qua* those offences are unsustainable, as there is no material even to *prima facie* link any acts of the parents of the husband towards offences punishable under Section 498A of the IPC or the ones quoted hereinabove. Permitting further proceedings to continue against the parents of the husband, notwithstanding the fact that no ingredient, of any of the offences alleged under the IPC is driven home, would run foul of the judgment rendered by the Apex Court in the case of ***KAHKASHAN KAUSAR v. STATE OF BIHAR***¹. The Apex Court has held as follows:

“Issue Involved

“11. Having perused the relevant facts and contentions made by the Appellants and Respondents, in our considered opinion, the foremost issue which requires determination in the instant case is whether allegations made against the in-laws Appellants are in the nature of general omnibus allegations and therefore liable to be quashed?

12. Before we delve into greater detail on the nature and content of allegations made, it becomes pertinent to mention that incorporation of section 498A of IPC was aimed at preventing cruelty committed upon a woman by her

¹ **2022 SCC Online SC 162**

husband and her in-laws, by facilitating rapid state intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as 498A IPC as instruments to settle personal scores against the husband and his relatives.

13. This Court in its judgment in *Rajesh Sharma v. State of U.P.*⁴, has observed:—

"14. Section 498-A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the statement of Objects and Reasons of the Act 46 of 1983. The expression 'cruelty' in Section 498A covers conduct which may drive the woman to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand. It is a matter of serious concern that large number of cases continue to be filed under already referred to some of the statistics from the Crime Records Bureau. This Court had earlier noticed the fact that most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualized. At times such complaints lead to uncalled for harassment not only to the accused but also to the complainant. Uncalled for arrest may ruin the chances of settlement."

14. Previously, in the landmark judgment of this court in *Arnesh Kumar v. State of Bihar*⁵, it was also observed:—

"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, bed-ridden grandfathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested."

15. Further in *Preeti Gupta v. State of Jharkhand*⁶, it has also been observed:—

"32. It is a matter of common experience that most of these complaints under section 498A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under section 498A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not

properly visualized 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 husband and all his immediate relations is also not uncommon. At times, even after the conclusion of 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 complaint are required to be scrutinized 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 amicable settlement altogether. The process of suffering is extremely long and painful."

16. In *Geeta Mehrotra v. State of UP*⁷, it was observed:—

"21. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of G.V. Rao v. L.H.V. Prasad reported in (2000) 3 SCC 693 wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was

quashed and set aside. Their Lordships observed therein with which we entirely agree that:

"there has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, 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 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 reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate the 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." The view taken by the judges in this matter was that the courts would not encourage such disputes."

17. Recently, in *K. Subba Rao v. The State of Telangana*⁸, it was also observed that:—

"6. 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."

18. The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this court

by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.

19. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 01.04.19, it is revealed that general allegations are levelled against the Appellants. **The complainant alleged that 'all accused harassed her mentally and threatened her of terminating her pregnancy'. Furthermore, no specific and distinct allegations have been made against either of the Appellants herein, i.e., none of the Appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are therefore general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High court, we have not examined the veracity of allegations made against him. However, as far as the Appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.**

20. Furthermore, regarding similar allegations of harassment and demand for car as dowry made in a previous FIR. Respondent No. 1 i.e., the State of Bihar, contends that the present FIR pertained to offences committed in the year 2019, after assurance was given by the husband Md. Ikram before the Ld. Principal Judge Purnea, to not harass the Respondent wife herein for dowry, and treat her properly. However, despite the assurances, all accused continued their demands and harassment. It is thereby contended that the acts constitute a fresh cause of action and therefore the FIR in question herein dated 01.04.19, is distinct and independent, and cannot be termed as a repetition of an earlier FIR dated 11.12.17.

21. Here it must be borne in mind that although the two FIRs may constitute two independent instances, based on separate transactions, the present complaint fails to establish specific allegations against the in-laws of the

Respondent wife. Allowing prosecution in the absence of clear allegations against the in-laws Appellants would simply result in an abuse of the process of law.

22. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the accused appellants, it would be unjust if the Appellants are forced to go through the tribulations of a trial, i.e., general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must therefore be discouraged."

(Emphasis supplied)

In the light of the facts obtaining in the case at hand and the judgment rendered by the Apex Court in the case of **KAHKASHAN KAUSAR** (*supra*), I deem it appropriate to obliterate the proceedings initiated against the parents of the husband *qua* the offences alleged under the IPC. But the allegation against them is also under Sections 3 and 4 of the D.P.Act. Sections 3 and 4 of the D.P.Act, read as follows:

"Section 3 : Penalty for giving or taking dowry.-

(1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with the fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more:

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years.

(2) Nothing in sub-section (1) shall apply to or, in relation to,-

(a) presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with rules made under this Act;

(b) presents which are given at the time of a marriage to the bridegroom (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with rules made under this Act;

Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.

Section 4 : Penalty for demanding dowry.-

If any person demands directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months."

(Emphasis supplied)

If what's app chats appended to the statement of objections are considered, there is no doubt that the demand of dowry is made by the parents of the husband. The offences under the Act is independent and distinct and the ingredients of those offences being met *albeit prima facie*, I deem it appropriate to permit further proceedings against the parents only under the Dowry Prohibition Act, is concerned.

10. For the aforesaid reasons, I pass the following:

ORDER

- (i) The Writ Petition is allowed in part.
- (ii) The challenge to the proceedings in crime No.87 of 2022, against petitioner No.1 - husband stands dismissed. Investigation shall continue against the husband for all the alleged offences.

- (iii) Registration of crime No.87 of 2022, against the petitioner No.4 stands quashed in its entirety.
- (iv) The proceedings against petitioner No.2 and 3 stands quashed, only insofar as the offences under the IPC are concerned.
- (v) The proceedings under Sections 3 and 4 of the D.P.Act shall continue against petitioners 2 and 3.
- (iii) Police are at liberty to proceed with the investigation and take all appropriate steps in furtherance thereof in accordance with law and bearing in mind the observations made in the course of this order.

**Sd/-
JUDGE**

bkp
CT:MJ