Digambar vs The State Of Maharashtra on 20 December, 2024

Author: B.R. Gavai

Bench: B.R. Gavai

2024 INSC 1019 REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2024
(Arising out of SLP (Crl.) No.2122 of 2020)

DIGAMBAR AND ANOTHER …APPELLANT(S)

VERSUS

THE STATE OF MAHARASHTRA
AND ANOTHER …RESPONDENT(S)

JUDGMENT

B.R. GAVAI, J.

1. Leave granted.

2. The present appeal challenges the final judgment and order dated 23rd January 2020 passed in Criminal Application 859 of 2019, vide which the learned Division Bench of the High Court of Judicature at Bombay at Aurangabad dismissed the application under Section 482 of the Code of Criminal Procedure, 19731 for quashing and setting aside the First Information Report2 No. 339 of 2018 dated 6th November 2018 1 "CrPC" hereinafter 2 "FIR" hereinafter registered with Shivaji Nagar Police Station, Latur for offences punishable under Sections 498-A, 312, 313 and 34 of the Indian Penal Code, 18603 filed against the husband of the complainant-Madhav Suryawanshi and the present appellants-Digambar Suryawanshi (Appellant No. 1) and Kashibai Suryawanshi (Appellant No. 2) (Parents-in-law of the complainant)

3. Shorn of details, the facts leading up to the present appeal are as under:

> 3.1. As per the FIR, the complainant and Madhav Suryawanshi (Son of the appellants) were married on 26th March 2006. Two daughters were born out of the wedlock.

After the birth of the second daughter in 2011, the complainant's husband and the appellants

demanded a son from her. They berated her and insulted her and inflicted physical and mental cruelty, stating that she was giving birth to only daughters. Due to the ill-treatment, she began residing separately from the month of February 2018. It was further alleged that the appellants used to instigate their son (Husband of the complainant) against the complainant. He 3 "IPC" hereinafter would beat her citing the reason that she was not giving birth to a male child.

3.2. It is further alleged in the FIR that, on 28th November 2016, the appellants along with the complainant's husband visited her in Latur. The appellants asked the complainant to eat a meal prepared by them, which she refused to consume initially. However, they coerced her to eat it despite her protests. On the next day, she had stomach pain in the morning, and she started bleeding. This led to her baby being aborted in her womb. On 5th December 2016, she visited the doctor along with her sisters and it was discovered that a piece of the foetus is still in her womb, and she was treated for the same. Based on these facts, alleging about the forced abortion and physical and mental cruelty, the complaint was made. 3.3. The appellants along with their son filed a criminal application under Section 482 of the Cr.P.C. praying for quashing and setting aside of the FIR No. 339 of 2018 before the High Court.

3.4. During its pendency, the Family Court at Latur vide order dated 20th May 2019 granted a decree of Divorce by mutual consent and dissolved the marriage between the complainant and the son of the appellants.

3.5. The High Court, vide impugned judgment and final order dated 23rd January 2020 dismissed the application filed under Section 482 of Cr.P.C. for quashing of the FIR No. 339 of 2018. 3.6. Being aggrieved thereby, the present appeal was filed. Notice was issued by this Court vide order dated 2nd June 2020. During the pendency of the matter, the chargesheet came to be filed on 8th February 2021.

4. We have heard Shri Shirish K. Deshpande, learned counsel for the appellants, Shri Samrat Krishnarao Shinde, learned counsel for Respondent No.1-State of Maharashtra and Smt. Prachiti Deshpande for Respondent No. 2- Complainant.

5. Shri Deshpande submits that the appellants before this Court have no active role to play. They have merely been roped into the complaint as they are the parents-in-law of the complainant.

6. It was further submitted that, if such a serious offence was committed by the appellants on 28th November 2016, it should have been mentioned in the notice of Divorce sent by the complainant on 15th May 2018 as it is alleged in the FIR, that the son of the appellants had also allegedly played a role in that incident. There is not even a whisper of this incident in this notice. The complaint was filed after the notice of Divorce, and it was merely filed to mount the pressure on the appellants and their son. This clearly shows that the complaint is concocted, and it was filed as an afterthought only with an intent to take revenge on the appellants.

7. Shri Deshpande further submitted that even if it is believed that the complainant allegedly found a piece of foetus in her womb after she was examined by the doctor, it does not automatically mean

that some poisonous substance was given by the appellants to her as there is not an iota of evidence to that effect.

8. It was further submitted that since the appellants and their son did not succumb to the pressure applied through the complaint and did not favourably respond to the notice of Divorce, another FIR was registered on 25th February 2019 against the son of the appellants for offences punishable under Sections 307, 336 and 427 of the IPC alleging that the son of the appellants had tried to kill her on the road in broad daylight.

9. It was further submitted that these pressure tactics compelled the son of the appellants to cooperate with the complainant and the Divorce for mutual consent was granted on 20th May 2019 by the Family Court at Latur. It was further submitted by Shri Deshpande, that after a bare reading of the allegations levelled in the FIR, they seem to be absurd and are inherently improbable. There is no circumstance where a conclusion can be reached that there is sufficient material to proceed against the appellants.

10. Lastly, it was submitted that the contents of the chargesheet clearly reveal that the appellants herein had no role to play in the miscarriage suffered by the complainant. The Doctor's statement reproduced in the chargesheet clearly states that the complainant had visited the hospital due to severe abdominal pain and bleeding. The doctor clearly stated that it was possible that the foetus became inanimate due to the abortion pills in the woman's diet and that seems to be the reason for the excessive bleeding. No opinion was given as to when the pills were ingested and in what form were they ingested, and hence, no role of the appellants herein could be established.

11. Per contra, Shri Samrat Krishnarao Shinde, learned counsel for Respondent No.1-State of Maharashtra submitted that the allegations levelled in the FIR prima facie disclose the commission of offences under Section 498-A, 312, 313 and 34 of the IPC. The complainant was consistently harassed after the birth of the second daughter as the appellants and their son wanted a male child and therefore mental and physical cruelty was inflicted upon the complainant.

12. It was further submitted by Shri Shinde that the appellants herein instigated their son against the complainant and played a major role in the harassment and the cruelty inflicted against the complainant. The appellants herein also played a role in the miscarriage suffered by the complainant.

13. Shri Shinde further submitted that the reliability and the truthfulness of the allegations cannot be examined at this stage. He submits that the High Court has rightly held that, it cannot be presumed that the complainant must have made false allegations to obtain divorce from the appellants' son. All of these points must be examined by the competent Trial Court when the trial is being conducted. He therefore submits, that no grounds for interference with the impugned order passed by the High Court are made out.

14. Smt. Prachiti Deshpande, learned counsel for Respondent No.2-Complainant has supported the contentions raised by the learned counsel for Respondent No.1.

15. At the outset, it is relevant to mention that the son of the appellants, i.e. the former husband of the complainant was also a petitioner in the proceedings before the High Court, which were filed for quashing. He had also filed a separate Special Leave Petition (Crl.) No. 3298 of 2020 against the same which had been tagged with the present appeal. However, the son of the appellants herein expired and therefore his appeal was disposed of as abated vide order dated 10th December 2024.

16. In the present case, the allegations raised by the complainant in the FIR will have to be examined to find out whether the allegations, when taken at their face value, would constitute any offence or make out a case against the appellants under Sections 498-A, 312, 313 and 34 of the IPC.

17. Firstly, the allegations under Section 498-A of the IPC must be examined. The said provision reads as under:

> "498A. Husband or relative of husband of a woman subjecting her to cruelty.- Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.
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> Explanation.—For the purposes of this section, "cruelty" means—
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> (a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
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> (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."

18. The ingredients for an offence to be made out under Section 498-A of IPC require that there has to be cruelty inflicted against the victim which either drives her to commit suicide or cause grave injury to herself or lead to such conduct that would cause grave injury or danger to life, limb or health. The second part of this Section refers to harassment with a view to satisfy an unlawful demand for any property or valuable security raised by the husband or his relatives. In the present case, no allegations which would fulfil the requirement of the second part are found.

19. A perusal of the FIR shows that the allegations made by the complainant are that in the year 2015, the appellants inflicted mental and physical cruelty upon her as she could not give birth to a male child. Such allegations made by the complainant appear to be vague as no specific instances of harassment are mentioned. No specific role or allegation is levelled on either of the appellants and no specific incident of physical or mental cruelty has been mentioned. A mere omnibus statement has been made that the physical and mental cruelty was afflicted because the complainant could not provide a male child. Furthermore, it is merely mentioned that the appellants would instigate the husband to harass the complainant, but again, no specific or precise instances are mentioned as to

how the appellants instigated their son and what acts were committed by him as a direct result of such instigation.

20. It would be appropriate to refer to a recent decision of this Court in Criminal Appeal 5199 of 2024 titled as Dara Lakshmi Narayana and Others vs. State of Telangana and Another4. This court dealt with the ingredients of Section 498-A and whether the same are attracted through vague allegations raised by the complainant (wife). It was observed that:

> "17. The issue for consideration is whether, given the facts and circumstances of the case and after examining the FIR, the High Court was correct in refusing to quash the ongoing criminal proceedings against the appellants arising out of FIR No. 82 of 2022 dated 01.02.2022 under Section 498A of the IPC and Sections 3 and 4 of the Dowry Act.
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> 18. A bare perusal of the FIR shows that the allegations made by respondent No.2 are vague and omnibus. Other than claiming that appellant No.1 harassed her and that appellant Nos.2 to 6 instigated him to do so, respondent No.2 has not provided any specific details or described any particular instance of harassment. She has also not mentioned the time, date, place, or manner in which the alleged harassment occurred. Therefore, the FIR lacks concrete and precise allegations.
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> 19. Further, the record reveals that respondent No.2 on 03.10.2021 left the matrimonial house leading appellant No.1 to file a police complaint on 05.10.2021. When the police officials traced her, respondent No.2 addressed a letter dated 11.11.2021 to the Deputy Superintendent of Police, Thirupathur Sub Division requesting to close the complaint made by appellant No.1. In the said letter, respondent No.2 admitted that she left her matrimonial house after quarrelling with appellant No.1 as she was talking to a person by name Govindan over the phone for the past ten days continuously. She further admitted that appellant No.1 was taking good care of her. She also stated that she will not engage in such actions in future. Despite that, in 2021 itself, respondent 4 2024 SCC OnLine SC 3682 : 2024 INSC 953 No.2 once again left the matrimonial house leaving appellant No.1 and also her minor children.
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> 20. Losing hope in the marriage, appellant No.1 issued a legal notice to respondent No.1 seeking divorce by mutual consent on 13.12.2021. Instead of responding to the said legal notice issued by appellant No.1, respondent No.2 lodged the present FIR 82 of 2022 on 01.02.2022 registered with Neredmet Police Station, Rachakonda under Section 498A of the IPC and Sections 3 and 4 of the Dowry Act.
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> 21. Given the facts of this case and in view of the timing and context of the FIR, we find that respondent No.2 left the matrimonial house on 03.10.2021 after quarrelling with appellant No.1 with respect to her interactions with a third person in their marriage. Later she came back to her matrimonial house assuring to have a cordial

relationship with appellant No.1. However, she again left the matrimonial house. When appellant No.1 issued a legal notice seeking divorce on 13.12.2021, the present FIR came to be lodged on 01.02.2022 by respondent No.2. Therefore, we are of the opinion that the FIR filed by respondent No. 2 is not a genuine complaint rather it is a retaliatory measure intended to settle scores with appellant No. 1 and his family members.

22. Learned counsel for respondent No.1 State contended that a prima facie case was made out against the appellants for harassing respondent No.2 and demanding dowry from her. However, we observe that the allegations made by respondent No.2 in the FIR seem to be motivated by a desire for retribution rather than a legitimate grievance. Further, the allegations attributed against the appellants herein are vague and omnibus.

23. Respondent No.2 has not contested the present case either before the High Court or this Court.

Furthermore, it is noteworthy that respondent No. 2 has not only deserted appellant No. 1 but has also abandoned her two children as well, who are now in the care and custody of appellant No.1. The counsel for the appellants has specifically submitted that respondent No.2 has shown no inclination to re- establish any relationship with her children. .....

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."

21. The facts in the said case are of similar nature when compared to the present case. It was held by this Court that vague allegations of cruelty were levelled by the complainant therein (wife) and the relatives of the husband (including the parents-in-law) were dragged into the crime without any reason. In paragraphs 18 and 21, it was held that the contents of the FIR were vague and omnibus, that the FIR lacked precise allegations, and it was lodged after the legal notice for Divorce was sent by the complainant therein. It was therefore concluded that the FIR came to be lodged as a retaliatory measure intended to settle score with the husband and his relatives.

22. In another recent judgment of this Court titled Jayedeepsinh Pravinsinh Chavda and Others v. State of Gujarat5, the guilt of the appellant therein under Section 498- A of IPC was maintained, however, the ingredients of 498-A of IPC were discussed. It was observed thus:

> "11. From the above understanding of the provision, it is evident that, 'cruelty' simpliciter is not enough to constitute the offence, rather it must be done either with the intention to cause grave injury or to drive her to commit suicide or with intention to coercing her or her relatives to meet unlawful demands."

23. Hence, it was clear that 'cruelty' is not enough to constitute the offence. It must be done with the intention to cause grave injury or drive the victim to commit suicide or inflict grave injury to herself. In the present case, the allegations levelled in the FIR do not reveal the existence of 5 2024 SCC OnLine SC 3679 : 2024 INSC 960 any such allegations. The only allegation that referred to an injury being inflicted against the complainant is a vague statement that the son of the appellants herein used to beat her, but there is no specific allegation of any such injury being caused by the appellants herein.

24. In the present case, in the latter half of the FIR, it is alleged that the complainant was given poisonous food by the appellants herein and was coerced into consuming the same. This led to the miscarriage and therefore the offences under Sections 312 and 313 of IPC were attracted. Sections 312 and 313 of the IPC read as under:

> "312. Causing miscarriage.- Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.
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> Explanation.—A woman who causes herself to miscarry, is within the meaning of this section."
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> 313. Causing miscarriage without woman's consent.- Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with 349[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."
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> 25. From a perusal of the provisions, it is clear that the ingredients necessary for the offence under Section 312 of the IPC is that the miscarriage must be voluntarily caused and must not be caused in good faith for the purpose of saving the life of the woman. Section 313 of the IPC states that the offence is attracted if the offence under Section 312 of the IPC is done without the consent of the woman.

26. The presence of the ingredients of the offences under Sections 312 and 313 of the IPC may be further examined through the perusal of the chargesheet dated 8th February 2021. The statement given by the Doctor who treated the complainant after the alleged incident on 28th November 2016 is found in the chargesheet. Same is reproduced hereinbelow:

"The complainant in this case, Pushpa Madhav Suryavanshi, was came to our hospital on 05-12- 2016 at 02.30 pm in the OPD for treatment of a complaint of abdominal pain and bleeding. I would have questioned the woman after enrolling in the OPD; she told me that, she was diagnosed with pregnancy when her urine was tested 7 days before coming to the hospital. But she told me that the next day after I was examined by kit, she told me that the abortion pills must have been in my stomach. Having told me that, I examined her and did sonography. While doing this sonography, I noticed that she had a seven-week-old lifeless fetus in her womb and was bleeding. Also, the blood in her body was very low. There was a great deal of abdominal pain as the lifeless fetus in the womb. So I admitted her for further treatment at five o'clock that evening. I then injected her with sleep and surgically removed the lifeless fetus by suction and evacuation. And then I discharged her after further treatment and the next day with a sonography to make sure the fetus was completely gone and sent her home.

Due to the abortion pill was given to the woman and her fetus became lifeless and because of the previous two cesareans, the abortion was not completed at home. Her excessive bleeding had reduced the amount of blood in her body. Later she came to my hospital for treatment as she was suffering from severe abdominal pain and bleeding.

While she was admitted in our hospital, she was accompanied by Sandhya Rathod. She was signed our documents.

However, Pushpa Madhav Suryavanshi was in my hospital 05-12-2016 when she was seven weeks pregnant and she was bleeding and having abdominal pain. Her sonography showed that her fetus become lifeless as abortion pill had ben inserted into her abdomen. I have treated her with suction and evacuation."

27. Through the perusal of the statement of the doctor, it is revealed that the complainant herself stated that the pregnancy was revealed to her when she tested it herself using a pregnancy testing kit and this was stated to be seven days before her visit to the hospital, i.e. on the day of the alleged incident. It is mentioned in the FIR that the complainant used to live in a separate house due to the alleged harassment by the appellants and their son. The appellants used to live in a village far from Latur. However, no reason is given in the FIR as to why the appellants and their son had visited her house in Latur on that day. Furthermore, there is not even a whisper in the FIR about the complainant conveying the news of the pregnancy to the appellants

or their son. It is unusual that when the allegations under Sections 312 and 313 of IPC are levelled against the appellants, such an important fact surrounding her pregnancy and its knowledge to the appellants is not to be found in the FIR. It is categorically mentioned in the FIR that the appellants brought the poisoned food pre-made from their village and hence, it would mean that they would need to have prior knowledge about the pregnancy of the complainant. No such communication or intimation is alleged by the complainant in the FIR that would even remotely lead to the conclusion that the appellants were aware about the pregnancy of the complainant.

28. This Court, in the case of State of Haryana and Others v. Bhajan Lal and Others6, after considering all the earlier precedents, has laid down principles which the High Court 6 1992 Supp (1) SCC 335 : 1990 INSC 363 must consider while exercising its jurisdiction under Section 482 Cr.P.C. for quashing of proceedings. It will be relevant to refer to the following observations of the court in Bhajan Lal:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fides 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."

29. It can thus be seen that this Court has held that when the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute a case against the accused, the High Court would be justified in quashing the proceedings. Further, it has been held that where the uncontroverted allegations in the FIR and the evidence collected in support of the same do not disclose any offence and make out a case against the accused, the Court would be justified in quashing the proceedings.

30. In the present case also, as discussed above, the facts when taken at face value, do not reveal any specific instance of cruelty committed by the appellants herein. In our view, only stating that cruelty has been committed by the appellants herein due to some reason, would not amount to the offence under Section 498-A of IPC being attracted. The next allegation regarding a specific incident relating to the miscarriage being caused by the appellants herein has also been discussed above. A bare perusal of the allegation and the analysis of the same when compared with the statement of the Doctor reveals that even if the allegations are accepted at the face value, it would not prima facie make out a case against the present appellants.

31. Furthermore, the complaint was lodged after the notice of Divorce was given by the complainant, wherein, there was not even a whisper of the allegation of the cruelty or the miscarriage caused by the appellants. The alleged incident took place in 2016, whereas the complaint was filed after the notice of Divorce was given by the complainant, i.e. in 2018.

The latest alleged incident in the FIR is of the year 2016, wherein the most serious allegations under Sections 312 and 313 of the IPC is raised. The explanation for the delay in filing of the complaint given by the complainant is that she did not want to spoil the marital relations. However, she has herself stated that she began residing separately and had moved out of the matrimonial house. Further, she had sent the notice of Divorce on 15th May 2018. This would certainly mean that she

believed that the marriage had broken down without there being any hope of reconciliation. It is difficult to believe that despite the complainant taking such drastic steps, she did not file the present FIR for another six months after the notice of Divorce was sent. Moreover, the notice of Divorce was completely silent about the allegations raised in the FIR which was subsequently filed. The notice of Divorce on the other hand contained allegations relating to the demand of money and jewellery from the complainant by the son of the appellants. It also contained vague allegations of physical assault inflicted by the son of the appellants. No allegation of cruelty or the miscarriage allegedly caused by the appellants was raised.

32. These facts lead us to conclude that the proceedings were initiated with an ulterior motive of pressurizing the son of the appellant herein to consent to the divorce according to the terms of the complainant and the proceedings were used as a weapon by the complainant in the personal discord between the couple.

33. It would again, be apposite to refer to the case of Dara Lakshmi Narayana (supra) wherein this Court has discussed the objective of Section 498-A of IPC and has also raised its concerns over the misuse of this Section in matrimonial disputes. This Court observed thus:

> "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.
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> 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."

34. We therefore hold that the continuance of the criminal proceedings against the appellants would result in an abuse of process of law.

35. In the present case, the High Court has held that the allegations made by the complainant cannot be presumed to be false and whether they are believable or not will be examined by the Trial Court. We hold that this was an erroneous approach taken by the High Court as according to the principles laid down in the case of Bhajanlal (supra), the allegations levelled in the complaint should at the very least be given a prima facie consideration.

36. In the result, we find that, this was a fit case wherein the High Court should have exercised its inherent powers under Section 482 of the Cr.P.C. to quash the criminal proceedings.

37. We are therefore inclined to allow the present appeal.

38. We accordingly pass the following order:

(i) The appeal is allowed;

(ii) The impugned judgment and order dated 23rd January 2020 passed by the High Court of Judicature at Bombay at Aurangabad in Criminal Application No. 859 of 2019 is quashed and set aside; and

(iii) The criminal proceedings against the appellants in FIR No. 339 of 2018 and Final Report No. 10 of 2021 on the file of Chief Judicial Magistrate, Latur and all subsequent proceedings arising therefrom are quashed and set aside.

39. Pending application(s), if any, shall stand disposed of.

.....J. (B.R. GAVAI) .....J. (K. V. VISWANATHAN) NEW DELHI;

DECEMBER 20, 2024.