

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CRMC No. 201/2019

Reserved on: 16.09.2025

Pronounced on: 14.10.2025

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*Whether the operative part or full
judgment is pronounced- Full Judgment*

Asha Rani & Ors.

.....Petitioners

Through :- Mr. Ajay Bakshi, Advocate.

v/s

Harsh Bala & Anr.

.....Respondents

Through :- Ms. Jyoti Sharma, Advocate for R-1.
Ms. Tejasvini Anand, Advocate vice
Mr. Bhanu Jasrotia, GA for R-2.

CORAM: HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

JUDGMENT

01. Petitioners have invoked inherent jurisdiction of this Court, for quashment of a private complaint, under Sections 498-A, 494, 497, 504 and 109 RPC, preferred by respondent no. 1 (hereinafter referred to as “the complainant”), in the Court of Chief Judicial Magistrate, Rajouri [“the trial court”], and, consequent enquiry report of the concerned Police Station, pursuant to the trial court order dated 24.07.2009 whereby proceedings came to be initiated against them.

02. An overview of the background facts is that a private complaint titled “*Harsh Bala vs. Anup Kumar & Ors*”, came to be preferred by the complainant in the trial court on 20.07.2009 and learned trial Court vide order dated 24.07.2009 postponed the process and forwarded the complaint for enquiry,

under Section 202 CrPC. The concerned SHO submitted the enquiry report dated 12.08.2009, on the basis of which cognizance came to be taken by the trial court against the petitioners. The petitioners invoked inherent jurisdiction of this Court to assail the said police report dated 12.08.2009 and consequent orders of the trial court.

03. According to the petitioners, the complainant appeared in this Court and since her counsel made a statement on 09.05.2017 that she did not wish to prosecute the complaint in the trial Court, therefore the petition preferred by them under Section 561-A CrPC came to be dismissed by this Court for non-prosecution on 17.05.2007.

04. The petitioners are aggrieved of the impugned complaint and the consequent orders passed by the trial court from time to time, *inter alia*, on the ground that allegations levelled by the complainant and her witnesses are generic in nature and do not spell out any specific or individual act on the part of the petitioners constituting the alleged offences. It is contention of the petitioners that impugned complaint and report of the concerned Police Station did not constitute any offence. According to the petitioners, the report submitted by the concerned SHO, is stereotyped based on the statements of the complainant and her witnesses, who have not specifically named them in connection with the alleged offences.

05. Pertinently, the present petition has not been responded by the respondents and their right to reply came to be closed by this Court on 28.05.2025.

06. Heard arguments and perused the file.

07. Mr. Ajay Bakshi, learned counsel for the petitioners, has relied upon **Geeta Mehrotra and Anr. Vs State of U.P. and Anr.; AIR 2013 SC 181**, to reiterate the grounds urged in the memo of petition.

08. *Ex-adverso*, Ms. Jyoti Sharma, learned counsel for the private respondent / complainant has relied upon **HMT Ltd vs. Smt. Rukmini & Ors; AIR 2024 SC 4677** to submit that since petitioners have not approached this Court within reasonable time, the present inordinately delayed petition deserves outright dismissal.

09. Mr. Bakshi, learned counsel for the petitioners, has rejoined the issue by relying upon **Kailashben Mahendrabhai Patel & Ors. vs. State of Maharashtra & Anr.; 2024 AIR SC 4825** and **Anil Babu @ Bara Raju vs. The State of Uttar Pradesh & Anr; {Crl. App. No. 1990 of 2024 (SLP [CRL.] No. 15275 of 2023) dated 08.04.2024}**, to contend that High Court cannot refuse to exercise inherent jurisdiction on the ground of delay, if continuation of a criminal trial is *per se* an abuse of the process of law and amounts to miscarriage of justice.

10. Before a closer look at the grounds urged in the memo of petition, it would be appropriate to have a closer look at the allegations of the complainant.

11. The private respondent preferred a complaint against the petitioners and her husband, namely Anup Kumar, in the trial court, stating *inter alia* that she was married to Anup Kumar on 15.04.2000, and they were blessed with a son, who, according to her, passed away due to the negligence and cruel acts of her husband and his mother-petitioner no. 1. They were also blessed with a daughter, who, at the time of filing of the complaint, was six years of age. It was alleged by the complainant that after the marriage, her husband on the instigation of the petitioners started demanding dowry and compelled her to

bring Rs. 2.00 lacs. from her parents to purchase a vehicle as a condition to accept her. On her refusal, she was beaten by her husband and was left at Rajouri along with her minor daughter. The complainant further alleged that ever since she was left at Rajouri by her husband, she was being continuously threatened on phone by her husband and his parents. The complainant goes on to allege that her husband (accused no. 1 in the complaint), was living in adultery, and two months prior to the filing of the complaint, her husband and his mother (petitioner no. 1) came to Rajouri and revealed in a Baradari that he had re-married with one Ritu, and that she would be accepted as a wife only if she pays Rs. 2.00 lacs to them. The complainant also alleged that on 12.07.2009, at about 0900 hours, she received a telephonic call from her husband, during which she was subjected to filthy abuses by him and his second wife and was threatened to be killed.

12. Section 498-A of the Penal Code came to be designed into the legal framework by way of amendment to shield the victims of dowry harassment and related offences committed by husband and members of his family. The Legislature, in its wisdom, enacted and inserted the anti-dowry and anti-domestic violence laws to protect the genuine victims. However, these beneficial legislations, conceived for the protection of dowry victims in particular and protection of women in general, have been misused by none other than the women as an instrument of oppression and a tool of harassment against their husband and members of his family. The ramifications of misuse are coming to the fore. The false and reckless accusations have not only eroded the trust between a married couple, but the society at large has started questioning the very credibility of the laws relating to dowry harassment and domestic violence.

13. In the aforesaid background, Hon'ble Supreme Court in **Arnesh Kumar v. State of Bihar and another; 2014 AIR SCW 3930**, has observed that Section 498-A IPC got a dubious place of pride amongst the provisions, due to the fact it is a cognizable and non bailable offence. It is used as weapon rather than shield by disgruntled wives, because the simplest way to harass is to get the husband and his relatives arrested under this provision and in quite a number of cases, bed-ridden grand-fathers and grand-mothers of the husbands, their sisters living abroad for decades were arrested. Taking note of the phenomenal increase in matrimonial disputes in recent years, the Apex Court issued a slew of guidelines to ensure that a police officer does not arrest an accused unnecessarily and magistrate do not authorize detentions casually and mechanically. Therefore, all the State Governments were directed to instruct its police officers not to automatically arrest when a case under section 498-A IPC is registered, without satisfying themselves about the necessity of arrest under the parameters flowing from Section 41 Cr.P.C.

14. Again, Hon'ble Supreme Court in **Dara Lakshmi Narayana; 2024 SCC Online SC 3682** and **Rajesh Chaddha; 2025 SCC Online SC 1094** having recognized the problem of misuse of section 498-A IPC, which addresses cruelty by a husband or his relative, against complainant wife, for personal vendetta, acknowledged the harm caused by false cases of dowry harassment and domestic violence exhorted upon the Courts to strike a balance between protection of genuine victims and prevention of abuse of these laws. The Apex Court clarified that vague accusations against a husband or his family members arising out of a matrimonial dispute without indicating their active involvement should be nipped in the bud.

15. In the aforesaid backdrop of exposition of law by Hon'ble Supreme Court, Courts are obliged to strike a balance of justice and fairness, i.e., to ensure that anti-dowry and anti-domestic violence laws are in place to protect the genuine victims of crime and to safeguard the rights of accused from false accusations.

16. If the present case is analyzed and approached with the principles of law enunciated by Hon'ble Supreme Court in **Arnesh Kumar** (supra) and **Dara Lakshmi Narayana** (supra), it is manifest that complainant has levelled omnibus accusations not only against her husband (now deceased), but also her 90-year-old mother-in-law and all the members of her in-laws' family without indicating their active involvement in any incident related to dowry demand or dowry harassment.

17. The allegation of the complainant is that after the marriage, her husband started demanding dowry at the instigation of his mother, petitioner no. 1 herein, and compelled her to bring Rs. 2.00 lacs from her parents to purchase a vehicle as a condition to accept her. On refusal, she was beaten by her husband, who left her along with their daughter at Rajouri. Thereafter, she was continuously threatened on phone by her husband and his parents. The complainant goes on to allege that a couple of months prior to the filing of the impugned complaint, her husband and his mother revealed in a Biradari that her husband had re-married with one Ritu and she would be accepted as a wife only if she pays Rs. 2.00 lacs to them. Preliminary statements of the complainant and witnesses were recorded by the trial court in support of the complaint, whereby they made same sweeping allegations. It is evident from a sheer glance at the contents of the impugned complaint and statements of the complainant and witnesses that she has made generalized allegations against her husband and mother-in-law

(petitioner no. 1 herein). There is no specific allegation against rest of the petitioners-other family members of the in-laws. Even the allegations of the complainant against her husband and mother-in-law are without specific details as to the time, date or place of the incidents. There is nothing in the impugned complaint to suggest that complainant ever approached the Police Station or the Court against the alleged dowry demands of her husband and mother-in-law from time to time. The concerned inquiry officer of the Police Station, without looking into this vital aspect of the matter, made a report in the trial court in a routine fashion against the petitioners and husband of the complainant, and learned trial court, in a mechanical fashion, issued process against the petitioners, which is preposterous.

18. It appears that complainant, due to some matrimonial discord, has implicated her in-laws and her late husband in false and frivolous accusations of dowry demand with an ulterior motive to wreck vengeance.

19. It is pertinent to mention that this Court was informed by learned counsels for the parties that husband of the complainant passed away during the currency of the complaint in the trial court. The Court requested learned counsel for the complainant to seek instructions from her client as to whether she wished to continue with the prosecution after the demise of her husband and the complainant decided to pursue the complaint.

20. Learned counsel for the complainant has opposed the present petition on the solitary premise that impugned complaint was preferred in the trial court on 20.07.2009 and therefore, the present petition at this length of time, after a gap of about 10 years, is liable to be dismissed.

21. The law of limitation is based on public policy. The principle traces its origin to the Limitation Act, 1963, which is the primary legislation and provides

the time limits within which a party can approach the Court to seek the relief. The legislation emphasizes efficiency and transparency by setting strict timelines for each stage of litigation. Yet, acknowledging that there may be valid reasons for delay, the law makes provision for Condonation of Delay, which enables Courts to entertain cases even after the expiry of the statutory limitation period, provided sufficient cause is shown. The sufficient cause is significantly reliant on the *bona fide* nature of the explanation offered. The judiciary, by and large, upholds the sanctity of the time-bound objective of law to ensure that continuation of proceedings does not defeat its core purpose. However, it is by far crystallized now that while statutes of limitation are meant to promote timely legal action, they should not be used to defeat substantive justice.

22. There is no quarrel to the settled position of law that where no limitation is prescribed in the statute to approach an appropriate forum, the aggrieved person must come to the Court within a “reasonable period of time” because if inordinately delayed litigations are accepted by the Courts, there would be no end to the litigation, due to which, neither a litigation would proceed nor conclude within timelines provided under law. A party invoking inherent jurisdiction of the High Court must meet the test of “reasonable dispatch”. What constitutes “Reasonable Time” would depend upon facts and circumstances of each case and ideally means a period that is not manifestly unreasonable. In other words, the time required by a conscious litigant to approach the Court. Therefore, Courts are obliged to strike a balance between adherence to procedural rules and the need to ensure that a deserving case is decided on merits because the term “sufficient cause” is not to be rigidly construed but liberally interpreted to advance substantial justice. When faced with a choice

between substantial justice and technical considerations, Courts must prefer substantial justice over technicalities of delay.

23. Hon'ble Supreme Court in **Mohammad Wajid and Anr. V. State of U.P & Ors; 2023 SCC Online SC 951**, has held that if an accused invokes inherent jurisdiction or extraordinary jurisdiction of the High Court on the ground that complaint or the FIR, as the case may be, is manifestly frivolous, vexatious or instituted with ulterior motive to wreck vengeance, the High Court owes a duty to examine the allegations a little more closely and the Court need not restrict itself to the stage of the case only but is empowered to take into account the overall circumstances leading to the registration of the case and the material collected in the course of the enquiry or investigation.

Relevant excerpt of the judgment reads as below:-

"34. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under section 482 of the Code of Criminal Procedure, 1973 (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking Vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under section 482 of the CrPC, 1973 or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged."

24. Again Hon'ble Supreme Court in **Anil Babu** (supra) has ruled that mere delay by itself cannot be a ground to refuse the invocation of inherent jurisdiction by the High Court, if continuation of a vexatious trial leads to miscarriage of justice.

Relevant observation captured in para 10, reads as below:-

"Mere delay by itself cannot be a ground in refusing the invocation of Section 482 of the Code of Criminal Procedure, if it otherwise leads to miscarriage of justice. The continuation of the trial in the absence of a charge being made out, would be against the liberty granted to an accused under Article 21 of the Constitution of India."

25. It is evident from the aforesaid principle of law, enunciated by the Apex Court, on delay and laches that if continuation of a criminal trial or prosecution is an abuse of the process of law and results in miscarriage of justice, it is the duty of the High Court to exercise the inherent jurisdiction, because the solitary purpose of invocation of inherent jurisdiction by the High Court is that a Court proceeding ought not be permitted to degenerate into a weapon of harassment or persecution.

26. If the case on hand is approached with the aforesaid principle of law in mind, it is clear that the complainant preferred the impugned complaint in the trial court with an ulterior motive against the petitioners and her husband to feed fat the grudge of some matrimonial discord. Unfortunately, the complainant refused to withdraw the prosecution even after the demise of her husband. The omnibus allegations in the impugned complaint do not disclose the commission of any offence against the petitioners.

27. For what has been observed and discussed above, the present petition is allowed and impugned complaint is quashed.

28. Disposed of.

(Rajesh Sekhri)
Judge

JAMMU
14.10.2025
Abinash

Whether the judgment is speaking? Yes
Whether the judgment is reportable? Yes