



HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 16977 of 2023

Rohit Sharma

.....Petitioners(s)

Versus

State of U.P. and Another

.....Respondents(s)

Counsel for applicant(s)	: Ahmad Saquib Mansoor, Randhir Jain, Sandeep Kumar Keshari
Counsel for Respondent(s)	: Arunesh Kumar Singh, G.A.

Neutral Citation No. - 2025:AHC:168750

AFR

Reserved

Court No. - 76

HON'BLE VIKRAM D. CHAUHAN, J.

1. Heard Sri Randhir Jain and Sri Sandeep Kumar Kesari, learned counsels for the Applicant, Sri Arunesh Kumar Singh, learned counsel for opposite party no.2 and learned A.G.A. for the State.
2. The present application is preferred by Applicant for quashing the chargesheet dated 12/5/2019 under sections 498A, 323, 504, 506 of I.P.C. and under sections 3/4 of Dowry Prohibition Act, 1961, police Station – Chaubeypur, District – Varanasi, as well as, cognizance order dated 25/7/2019 in criminal case no. 999 of 2019 (State Vs Anil Sharma and others) arising out of Case Crime No. 02 of 2019 under sections 498A, 323, 504, 506 I.P.C and Sections 3/4 of Dowry Prohibition Act pending in the Court of Judicial Magistrate-IIIrd, District Magistrate, Varanasi.
3. The applicant is brother-in-law of informant. Initially, the first information report dated 03.01.2019 was lodged under sections 498A, 323, 504, 506 of Indian Penal Code and Sections 3/4 of Dowry

Prohibition Act, against Applicant and five other accused persons [(namely - Anil Sharma (Husband), Virendra Sharma (Father in law), Malti Devi (Mother in Law), Amit Sharma (Brother in law), Ishu (Brother in law)], at police Station – Chaubeypur, Varanasi. The first information report was lodged by opposite party no. 2 – Geeta Sharma. The first information report was lodged at Case Crime No.02 of 2019.

4. The prosecution case as per the first information report is to the effect that opposite party no. 2-wife was married to Anil Sharma on 24.04.2013. At the time of marriage, at the tilak ceremony Rs. 50,000/- cash, gold ring, clothes and other items were given and thereafter at the time of marriage further gifts were given. After marriage, informant went to matrimonial home then after one and half months of marriage, husband, father-in-law, mother-in-law and brother-in-law (which included the applicant), started harassing and beating the informant for dowry and demanded Rs. 2 lakhs for establishment of business. The opposite party no. 2 objected to aforesaid demand and stated that the family members of opposite party no. 2 are not in a position to pay Rs. 2 Lacs as demanded by accused persons, as a result of the same, accused persons started beating and harassing opposite party no 2. When the father of informant came to take informant for some days, accused persons have demanded dowry and stated that informant may not be sent back to matrimonial home if the demand for dowry is not fulfilled. The jewellery which was given by father of informant was retained by accused persons and informant was sent back. The father of informant used to send back informant to matrimonial home. Out of the marriage, one son was born who is aged about three years at the time of lodging of first information report, however, all the expenses of aforesaid son are being met out by father of informant. On 05.06.2018, when informant was seven months pregnant, the husband, father-in-law, mother-in-law and brother-in-law and Kishori came and on the enticing of Kishori, accused persons demanded rupees two lakhs as dowry and thereafter have assaulted informant and have thrown her out of matrimonial home along with child and the accused persons have stated that informant may

not come back till demand of dowry is met. The accused person have beaten informant and as a result of the same she was admitted in hospital at Varanasi and second child was born dead. Informant is living with her father in her parental home and accused persons had not taken any pain to contact her.

5. The investigating officer thereafter has recorded statement of the informant under section 161 of Code of Criminal Procedure, where informant has stated that marriage of informant with co-accused-Anil Kumar was held on 22.04.2013 in accordance with Hindu Rituals and Rites. In the marriage, father of informant had given 50,000 cash, jewellery and other items. After one and half years of marriage the husband, father-in-law, mother-in-law and three brother-in-law have beaten and harassed the informant for demand of dowry. The accused person were demanding dowry to the tune of Rs. Two Lacs for purpose of establishment of business. When the parents of informant went to meet the accused persons they have demanded Rs Two Lacs and further stated not to send informant if the demand is not met. All the jewellery were kept by the accused persons and the informant was sent back to her parents home. The parents of informant used to send the informant to the matrimonial home. One son was born out of marriage. In the intervening period when informant was sent back to her matrimonial home, the husband, mother-in-law, father-in-law and brother-in-law used to assault the informant and have thrown her out of matrimonial home and stated to informant not to come back without the amount demanded.

6. Thereafter, statement of mother of informant namely Shanti Sharma was recorded by investigating officer, who has stated that Geeta Sharma is my daughter and she was married with great pomp and show with Anil Sharma by giving 50,000 cash and jewellery. Initially, everything was good but after few days my daughter's husband, mother-in-law, father-in-law and brother-in-law started demanding Rs. Two Lacs as dowry. When it was informed that they do not have the money then the accused persons have beaten my daughter (informant) abused her and thrown her out of matrimonial home and further stated that if the

amount of Rs. four lakh is not given then they will kill her. The accused persons have harassed the informant for dowry.

7. The investigating officer has further recorded the statement of father of informant namely-Chauthi Sharma who has stated that marriage of his daughter was held with great pomp and show by giving 50,000 cash as Tilak and some jewellery. Things were fine for some time after marriage but after few days, husband, mother-in-law, father-in-law and three brother-in-law started demanding rupees Rs. two lacs as dowry and started harassing informant. We tried to convince accused persons and sent informant to matrimonial home, however, accused persons used to pressurise informant to bring Rs. two lacs as dowry, further accused persons used to harass informant and beat her, abuse her and threatened for life.

8. The investigating officer thereafter submitted charge-sheet dated 03.01.2019 against accused persons including the applicant under section 498A, 323, 504 and 506 of Indian penal code and section 3/4 of Dowry Prohibition Act, 1961. The court concerned thereafter has taken cognizance on 25.07.2019.

9. It is submitted by learned counsel for applicant that applicant is brother-in-law and is residing in Prayagraj city for preparation of competitive examination. It is further submitted that allegations in first information report and statement recorded by investigating officer, in respect of applicant, are wholly vague in nature and lacks specification. It is further submitted that applicant has never demanded any dowry nor has harassed opposite party no.2 for non-fulfillment of dowry.

10. It is submitted by learned counsel for opposite party no. 2—informant that the informant lodged the first information report against the accused persons including applicant and thereafter investigating officer has investigated the case and recorded the statement under section 161 of Cr.P.C. and found accused person to be offender. The accused persons including applicant have committed assault and have harassed informant and demanded dowry as such investigating officer

has rightly submitted chargesheet and the court concerned has taken cognizance in accordance with law.

11. Learned AGA on behalf of opposite party no.1 submitted that chargesheet has been submitted against applicant in accordance with law and the court concerned has taken cognizance of offence. It is further submitted that applicant was found to have demanded dowry and subjected informant to harassment and assault. The court concerned has in accordance with law taken cognizance of offence. The present 482 Cr.P.C application is liable to be dismissed.

12. In the present case, applicant (who is brother-in-law of informant), is also prosecuted under Section 498-A of Indian Penal Code and Section 3/4 of Dowry Prohibition Act. Section 498A of Indian Penal Code provides penal consequences where husband or relative of husband subjects such woman to cruelty. The cruelty has been defined in the explanation appended to Section 498A of Indian Penal Code. There are two explanations provided under aforesaid provision for interpretation of word “cruelty” provided under aforesaid section. The explanation (a) provides that “cruelty” would mean 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). The explanation (b) provides cruelty would mean harassment of the woman where such harassment is with a view to coerce her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure of her or any person related to her to meet such demand. The provisions of Section 498A of Indian Penal Code prescribes 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.

Explanation.—For the purposes of this section, “cruelty” means — (a) any wilful 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 (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.”

13. In the present case, there is no allegation that the applicant has offered 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 of woman. The counsel for opposite parties has neither relied upon any grave injury suffered by opposite party no. 2 nor has relied upon any medical report in this respect. It is not in dispute between the parties that no medical practitioner was examined in support of FIR before the court concerned. It is not alleged in the FIR nor any material circumstances have been shown on behalf of opposite parties that the conduct of applicant was of such a nature as is likely to drive the wife to commit suicide.

14. As per prosecution case, it is alleged that the wife was being subjected to harassment by accused person and demanding amount to meet unlawful demand. For the purpose of prosecution under Section 498A of Indian Penal Code, it is imperative that the woman should be subjected to cruelty by the husband or relative of the husband of a woman. As per explanation (b) of the aforesaid section, it is imperative that the harassment of woman should be with a view to coerce 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 the woman to meet such demand.

15. A perusal of First Information Report would go to show that general and omnibus allegations are made against the applicant with regard to demand of dowry. Although in first information report, it has been stated that accused persons were demanding dowry of Rs. two lacs, however, neither the date nor time of alleged demand has been disclosed in the FIR. The statement of informant also does not disclose the details

of harassment which has been incurred by applicant to the wife-informant in respect of demand for dowry.

16. This Court in **Viri Singh and another Vs State of U.P. and another – 2025:AHC:147074** in the context of vague and general allegations in a criminal case, has observed as under :-

“24. Criminal law is set in motion by lodging of First Information Report or Complaint. The investigation/prosecution is carried upon to find the truth in allegations. Setting in motion criminal law entails consequences including curtailing of liberty of individual. The criminal law machinery is based on the nature of allegations and the evidence found during investigation/prosecution/enquiry. It is important for prosecution to provide precise details of allegations and evidence to support the prosecution case.

25. Vague, ambiguous and omnibus allegations can violate the right of accused to process of law and fair trial. It is fundamental principle of law that accused be subjected to fair trial. Vague allegation has significant effect on defence by creating uncertainty. Without specific details and evidence, the defence of accused may be prejudiced or the accused may not be able to effectively defend himself.

26. Vague allegation can affect the defence of accused by making it difficult to formulate a targeted defence strategy. Without clear specifics or evidence to address, accused may struggle to refute the allegations or present a compelling counter argument. Lawyers/Advocates typically rely on specific information to prepare their case, such as dates, time, location, and witnesses. Vague allegations lack these crucial details, leaving the defence to speculate or generalize their response, which can weaken their defence in court. The mere suggestion of wrong doing, without substantiation, can lead to stigma and prejudice against the accused, making it harder for them to receive a fair trial. Moreover, vague allegations may prolong legal proceedings as the defence attempts to gather more information to understand the accusations fully.”

17. In **S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla, (2005) 8 SCC 89** the Supreme Court has laid emphasis that the complaint must contain material to enable the court to make up mind for issuing process.

“5. Section 203 of the Code empowers a Magistrate to dismiss a complaint without even issuing a process. It uses the words “after considering” and “the Magistrate is of opinion that there is no sufficient ground for proceeding”. These words suggest that the Magistrate has to apply his mind to a complaint at the initial stage itself and see whether a case is made out against the accused persons before issuing process to them on the basis of the complaint. For applying his mind and forming an opinion as to whether there is sufficient ground for proceeding, a complaint must make out a prima facie case to proceed. This, in other words, means that a complaint must contain material to enable the Magistrate to make up his mind for issuing process. If this were not the requirement, consequences could be far-reaching. If a Magistrate had to issue process in every case, the burden of work before the Magistrate as well as the harassment caused to the respondents to whom process is issued would be tremendous. Even Section 204 of the Code starts with the words “if in the opinion of the Magistrate taking cognizance of an offence there is sufficient ground for proceeding”. The words “sufficient ground for proceeding” again suggest that ground should be made out in the complaint for proceeding against the respondent. It is settled law that at the time of issuing of the process the Magistrate is required to see only the allegations in the complaint and where allegations in the complaint or the charge-sheet do not constitute an offence against a person, the complaint is liable to be dismissed.”

18. The question therefore arises what is the material which is required to be before the court to issue process under criminal law. The material facts and particulars to constitute an offence are required to be shown by prosecution before the court proceeds to issue the process. The material facts and particulars are those facts which essentially would be required to constitute an offence. These facts would also include such facts which the law recognises as important facts for proceeding with the trial of the case. These facts are also necessary to bring fairness in the process of trial. In this respect, Sections 212 and 213 of Cr.P.C. (Section 235 & 236 of BNSS) also recognises that the charge shall contain particulars of time & place of offence and the particulars or the manner in which the alleged offence was committed. The rule of law requires that accused is visited with specific allegations in criminal prosecution.

Specific allegations under criminal law would require that date, time and place of alleged offence is specified (more particularly when the complainant is the victim having personal knowledge), the details of person against whom the offence is committed or the thing in respect of which the offence was committed. The allegations should also describe the manner in which the offence is committed. In **Neelu Chopra v. Bharti, (2009) 10 SCC 184** the Hon'ble Supreme Court has emphasised the need for specific and proper allegation in criminal law. In this reference para-9 of the Neelu Chopra Judgement (Supra) is quoted herein below :

“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.”

19. In **Achin Gupta Vs State of Haryana, 2024 INSC 369**, the Supreme Court has laid emphasis that general and sweeping allegation without specific instance is an abuse of process of Court. In this reference para-25 of the Achin Gupta (Supra) is quoted herebelow :

“25. If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it is nothing but abuse of the process of the court. The court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, prima facie, whether there is any grain of truth in the allegations or whether they are made only with the sole object of involving certain individuals in a criminal charge, more particularly when a prosecution arises from a matrimonial dispute”

20. In **Dara Lakshmi Narayana & Others Vs State of Telangana & Another, 2024 INSC 953**, the Supreme Court has observed that vague allegation may lead to misuse of legal process. In this respect, para 18 & 28 is quoted herein below:

“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.

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 the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.”

21. In Geeta Mehrotra and another Vs State of Uttar Pradesh and another – 2012 (10) SCC 741, the Supreme Court has held that where the contents of the first information report do not disclose specific allegations against the brother and sister of the complainant's husband except casual reference of their names, it would not be just to direct them to go through protracted procedure and as a result of same criminal proceedings against brother-in-law and sister-in-law were quashed in the said case.

22. A bare perusal of First Information Report and statement of opposite party no. 2 would go to show that general, vague and omnibus allegations are made against applicant. It has not been disclosed in first information report or in statement of opposite party no.2 as to the role assigned to applicant. Even the date of demand of dowry and the manner in which demand for dowry was made, is not stated. In the statement of

opposite party no.2, general and vague allegations with regard to demand of dowry are made against the applicant, who is brother-in-law. In view of aforesaid, general, vague and omnibus allegations have been made against applicants, (who is family members of husband) as such, the aforesaid allegations cannot be a ground for summoning the applicant-accused under Sections 498A of Indian Penal Code and Section 3/4 of Dowry Prohibition Act.

23. The Applicant is also summoned under Sections 504 and 506 of Indian Penal Code. The offence under Section 504 of Indian Penal Code prescribes that whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. The offence under Section 504 I.P.C. requires that there should be intentional insult and thereby giving provocation to any person intending or knowing that such provocation will cause him to break public peace or to commit any offence. In the present case, there are no material circumstances to show that there was any intentional insult which would give provocation to the wife to cause any break of public peace or to commit any offence as such the material ingredient of offence under Section 504 I.P.C. is not made out from the prosecution case. Further, Section 506 provides punishment for offence of criminal intimidation.

24. The offence of criminal intimidation has been prescribed under Section 503 of Indian Penal Code and the same is quoted here in below :-

"503. Criminal intimidation.-Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.-A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section."

25. An act of criminal intimidation would occur when a person threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

26. A perusal of first information report would go to show that there is no allegation of any threatening against applicant. The first information report does not make any specific allegations against applicant with regard to any threatening and using of abusive language. The first information report does not specify as to what was the language used by applicant. Further the date, time and place of threatening by applicant has also not been disclosed in the complaint. Even otherwise, allegations do not constitute an offence under Sections 504 and 506 of Indian Penal Code against applicant. The court concerned erred in issuing summons against applicant under Sections 504 and 506 of Indian Penal Code.

27. The applicant is also summoned under Sections 323 of Indian Penal Code. Section 323 of Indian Penal Code provides for offence of causing hurt. The 'Hurt' has been defined under Section 319 of I.P.C. as whoever causes bodily pain, disease or infirmity to any person is said to cause hurt. The informant has specifically alleged that the accused has assaulted the Informant and have thrown her out of matrimonial home. The statement of complainant before the court concerned alleges general, vague and omnibus allegation against the applicant with regard to assault and there is no allegation in the first information report nor in the statement of informant of causing any body pain, disease or infirmity to informant. The counsel for opposite party no.2 has not relied upon any medical report nor any doctor is shown to have been examined by investigating officer with regard to any bodily pain, disease or infirmity.

In view of the aforesaid, the prosecution case does not satisfy the ingredients of offence under Sections 323 IPC read with section 319 IPC.

28. In view of reasons stated herein above, the criminal proceedings against Applicant (namely-Rohit Sharma) including chargesheet dated 12.05.2019 under sections 498A, 323, 504, 506 of the Indian Penal Code and under section 3/4 of Dowry Prohibition Act, 1961, Police Station – Chaubeypur, District – Varanasi as well as cognizance order dated 25.07.2019 in Criminal Case No. 999 of 2019 (State Vs Anil Sharma and others) arising out of Case Crime No. 2 of 2019 under Sections 498A, 323, 504, 506 I.P.C and Section 3/4 of Dowry Prohibition Act pending in the Court of Judicial Magistrate-IIIrd, District Magistrate, Varanasi is hereby quashed in respect of applicant – Rohit Sharma. The present application under Section 482 of Criminal Procedure Code, 1973 is allowed.

(VIKRAM D. CHAUHAN, J.)

September 19, 2025

S.Prakash