

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 700 OF 2024

BETWEEN:

SRI. PRASHANTH
S/O SADASHIVA
AGED ABOUT 42 YEARS
R/AT HOSAMAR MANE,
SHALE PADAVU, MOODUSHEDDE,
MANGALORE, D.K DISTRICT - 575 001

...PETITIONER

(BY SRI. SUYOG HERELE E, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH MANGALORE WOMEN P.S
REPRESENTED BY SPP
HIGH COURT OF KARNATAKA
HIGH COURT BUILDING,
BANGALORE - 560001

2. SMT ANURADHA @ ANUSHA
W/O PRASHANTH
AGED ABOUT 35 YEARS
R/AT C/O KOTYAPPA POOJARI
NAVOORU VILLAGE ^{AND} POST,
BELTHANGADY TALUK
D.K DISTRICT - 574214

...RESPONDENTS

(BY SRI. JAVEED S, HCGP FOR R1,
SRI. RAGHAVENDRA SHENOY, ADVOCATE FOR R2)

THIS CRL.P. IS FILED U/S.482 OF CR.P.C PRAYING TO
MAY BE PLEASED TO ALLOW THIS CRL.P AND QUASH THE
ENTIRE PROCEEDINGS IN C.C.NO.314/2017 (ON THE FILE OF

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

THE LEARNED II ADDL.SENIOR CIVIL JUDGE AND C.J.M MANGALORE D.K., DISTRICT) IN CONNECTION WITH CR.NO.44/2016 REGISTERED BY RESPONDENT NO.1 POLICE FOR THE ALLEGED OFFENCE P/U/S 498A,94 OF IPC INCLUDING FIR, COMPLAINT AND CHARGE SHEET PRODUCED AT DOCUMENTS NUMBERS 1,2,3,4.

THIS PETITION HAVING BEEN RESERVED FOR ORDERS ON 22.09.2026 COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

CAV ORDER

This petition is filed under Section 482 of Cr.P.C seeking to quash proceedings against the petitioner/accused in C.C No.314/2017 (arising out of Crime No.44/2016 of Mangalore Women Police Station), pending on the file II Addl. Senior Civil Judge and CJM, Mangaluru (for short, 'the learned Magistrate'), for the offence punishable under sections 498A, 494 of IPC.

2. The abridged facts of the case are that respondent No.2 lodged a complaint before respondent No.1-Police on 06.10.2016 alleging that her marriage with the petitioner was solemnized on 08.12.2002. Out of the wedlock, a male child was born, who was aged about 10 years at the time of lodging the complaint. Thereafter, respondent No.2 and the petitioner were residing at their matrimonial home at Mangaluru.

3. It is further alleged that, subsequently, the petitioner came into contact with one Kavya and developed an extra-marital relationship with her, pursuant to which he started harassing, humiliating and ill-treating respondent No.2. It is also alleged that the petitioner sold all the gold ornaments belonging to respondent No.2. Subsequently, respondent No.2 came to know that the petitioner had married the said Kavya and had never turned up to their house, but had travelled to a Gulf country. Hence, respondent No.2 lodged a complaint before respondent No.1-Police against the petitioner.

4. On the basis of the said complaint, respondent No.1-Police registered an FIR against the petitioner for the offence punishable under Section 498A of IPC. After completion of investigation, the respondent No.1-police laid the charge sheet against the petitioner for the offences punishable under Sections 498A and 494 of IPC. The learned Magistrate thereafter took cognizance of the said offences against the petitioner. Aggrieved by the same, the petitioner has preferred the present petition.

5. Heard the learned counsel for the petitioner, the learned High Court Government Pleader for the respondent No.1 - State and the learned counsel for respondent No.2.

6. Apart from urging several other contentions, the learned counsel for the petitioner primarily contended that Section 198(1)(c) of Cr.P.C. mandates that, in respect of an offence punishable under Section 498A of IPC, a complaint as contemplated under Section 2(d) of Cr.P.C. has to be lodged by the aggrieved person. It is contended that, in the absence of such a complaint by the aggrieved person, respondent No.1- Police could not have registered the case and laid the charge sheet, and consequently, the learned Magistrate could not have taken cognizance of the alleged offences. Hence, the entire proceedings are vitiated.

7. It is further contended that, except for certain omnibus allegations, there are no specific allegations against the petitioner either with regard to the offence punishable under Section 498A or Section 494 of IPC. Accordingly, he prays to allow the petition.

8. *Per contra*, the learned counsel for respondent No.2 contended that the offences alleged against the petitioner are

punishable under Sections 498A and 494 of IPC. It is submitted that Section 155(4) of Cr.P.C. provides that, where a case relates to two or more offences, of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable. Therefore, it is contended that the respondent No.1-police could not have investigated the cognizable offence alone while omitting the non-cognizable offence, as the entire case is required to be treated as a cognizable case. To buttress his submission, learned counsel placed reliance on the judgment of the Hon'ble Apex Court in **STATE OF ORISSA V. SHARAT CHANDRA SAHU**, reported in **(1996) 6 SCC 435**, and the judgment in **USHABEN V. KISHORBHAI CHUNILAL TALPADA AND OTHERS**, reported in **(2012) 6 SCC 353**.

9. It is further contended that, on a perusal of the complaint and other materials on record, specific allegations are forthcoming against the petitioner with regard to the offences punishable under Sections 498A and 494 of IPC. Hence, it is contended that the proceedings against the petitioner cannot be quashed at this stage. Accordingly, he prays for dismissal of the petition.

10. Learned High Court Government Pleader for respondent No.1-State opposed the prayer of the petitioner, contending that, upon completion of investigation, the respondent No.1-police have laid the charge sheet and the statements of the material witnesses disclose the involvement of the petitioner in the alleged offences. Accordingly, he prays for dismissal of the petition.

11. I have given my anxious consideration both on the submissions made by the learned counsel for the respective parties so also perused the entire charge sheet materials.

12. The contention advanced by the learned counsel for the petitioner that, since the offence punishable under Section 494 of IPC falls under Chapter XX of IPC, Section 198(1)(c) of Cr.P.C. mandates filing of a complaint before the Magistrate as contemplated under Section 2(d) of Cr.P.C., and that, in the absence of such complaint, the police could neither investigate the case nor lay the charge sheet, is no longer *res integra*.

13. The said issue stands settled by the judgment of the Hon'ble Apex Court in **USHABEN** supra. The Hon'ble Apex Court, while considering the scope and applicability of Section

198(1)(c) of Cr.P.C., has dealt with the said issue in paragraph

Nos.9 to 18 of the judgment, which held as under:

"9. We shall now quote the relevant sections of IPC and the Code. Section 494 IPC falls in Chapter XX IPC. Chapter XX pertains to offences relating to marriage. So far as it is relevant, Section 494 reads as under:

"494. Marrying again during lifetime of husband or wife.—
Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

10. Section 190 of the Code states when cognizance of offences can be taken by a Magistrate. It reads as under:

"190.Cognizance of offences by Magistrates.—(1) Subject to the provisions of this Chapter, any Magistrate of the First Class, and any Magistrate of the Second Class specially empowered in this behalf under sub-section (2), may take cognizance of any offence—

- (a) upon receiving a complaint of facts which constitute such offence;*
- (b) upon a police report of such facts;*
- (c) upon information received from any person other than a police officer, or upon*

his own knowledge, that such offence has been committed.

(2) The Chief Judicial Magistrate may empower any Magistrate of the Second Class to take cognizance under sub-section (1) of such offences as are within his competence to inquire into or try."

11. Section 198 of the Code pertains to prosecution for offences against marriage. Sub-section (1) thereof is relevant. It reads as under:

"198.Prosecution for offences against marriage.—(1) No court shall take cognizance of an offence punishable under Chapter XX of the Penal Code, 1860 except upon a complaint made by some person aggrieved by the offence:"

12. Section 198(1)(c) of the Code reads as under:

"198. (1)(c) Where the person aggrieved by an offence punishable under Section 494 or Section 495 of the Penal Code, 1860 is the wife, complaint may be made on her behalf by her father, mother, brother, sister, son or daughter or by her father's or mother's brother or sister, or, with the leave of the court, by any other person related to her by blood, marriage or adoption."

13. The above provisions indicate that whereas Section 190(1) empowers the Magistrate to take cognizance of any offence, upon receiving complaint of facts which constitute such offence; upon police report of such facts; upon information received from any person other than a police officer or upon his knowledge that such offence has been committed, Section 198 which relates to prosecution of offences against marriage brings in

the concept of complaint by an aggrieved person and Section 198(1)(c) explains how far the scope of the term "aggrieved person" can be extended in the context of offence under Section 494 IPC.

14. *We must now turn to Section 198-A of the Code. It reads thus:*

"198-A. Prosecution of offences under Section 498-A of the Penal Code, 1860.—No court shall take cognizance of an offence punishable under Section 498-A of the Penal Code, 1860 except upon a police report of facts which constitute such offence or upon a complaint made by the person aggrieved by the offence or by her father, mother, brother, sister or by her father's or mother's brother or sister or, with the leave of the court, by any other person related to her by blood, marriage or adoption."

15. *A conjoint reading of the above provisions makes it clear that a complaint under Section 494 IPC must be made by the aggrieved person. Section 498-A does not fall in Chapter XX IPC. It falls in Chapter XX-A. Section 198-A which we have quoted hereinabove, permits a court to take cognizance of offence punishable under Section 498-A upon a police report of facts which constitute offence. It must be borne in mind that all these provisions relate to cognizance of the offence by the court.*

16. *"Complaint" is defined under Section 2(d) of the Code. The definition reads as under:*

"2. (d) 'complaint' means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown,

has committed an offence, but does not include a police report.

Explanation.—A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant;”

(emphasis supplied)

Explanation to Section 2(d) makes it clear that a report made by a police officer after investigation of a non-cognizable offence is to be treated as a complaint and the officer by whom such a report is made is to be deemed to be the complainant.

17. *The above provisions lead us to conclude that if a complaint contains allegations about commission of offence under Section 498-A IPC which is a cognizable offence, apart from allegations about the commission of offence under Section 494 IPC, the court can take cognizance thereof even on a police report.*

18. *Reliance placed by the High Court on its earlier judgment in Babubhai Patel [(1969) 1 Cri LJ 567 (Guj)] is misplaced. In that case, the High Court was dealing with all the offences falling under Chapter XX IPC. Initially, the accused were charged under Section 417 read with Section 114 IPC. That charge was given a go-by and a fresh charge in respect of Sections 493 to 496 IPC was framed. These offences fall in Chapter XX IPC. Therefore, the High Court held that cognizance thereof can be taken by the Magistrate only on the basis of complaint filed under Section 190(1)(a) of the Code by an aggrieved person. That judgment cannot be applied to the present case. Facts of that case were different and there the High Court was dealing with*

cognizance of the offences falling under Chapter XX by the Magistrate."

14. Further, the Hon'ble Apex Court in the case of

STATE OF ORISSA V. SHARAT CHANDRA SAHU - (1996) 6

SCC 435 supra held in paragraph Nos.11 and 12 as under:

"11. Sub-section (4) creates a legal fiction and provides that although a case may comprise of several offences of which some are cognizable and others are not, it would not be open to the police to investigate the cognizable offences only and omit the non-cognizable offences. Since the whole case (comprising of cognizable and non-cognizable offences) is to be treated as cognizable, the police had no option but to investigate the whole of the case and to submit a charge-sheet in respect of all the offences, cognizable or non-cognizable both, provided it is found by the police during investigation that the offences appear, prima facie, to have been committed.

12. Sub-section (4) of Section 155 is a new provision introduced for the first time in the Code in 1973. This was done to overcome the controversy about investigation of non-cognizable offences by the police without the leave of the Magistrate. The statutory provision is specific, precise and clear and there is no ambiguity in the language employed in sub-section (4). It is apparent that if the facts reported to the police disclose both cognizable and non-cognizable offences, the police would be acting within the scope of its authority in investigating both the offences as the legal fiction enacted in sub-section (4) provides that even a non-cognizable case shall, in that situation, be treated as cognizable."

15. Collocating the aforesaid findings of the Hon'ble Apex Court with the facts and circumstances of the present

case, the same are squarely applicable. Hence, the above contention advanced by the learned counsel for the petitioner does not merit acceptance.

16. As regards the other contention of the learned counsel for the petitioner that there are no specific allegations of harassment against the petitioner, a careful perusal of the complaint and charge sheet materials discloses that, after coming into contact with one Kavya, the petitioner allegedly subjected respondent No.2 to physical and mental harassment and also sold her gold ornaments. It is further alleged that, during the subsistence of his marriage with respondent No.2, the petitioner married the said Kavya and thereafter left for a Gulf country. These are serious allegations which require to be tested in a full-fledged trial.

17. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute offence of which cognizance has been taken by the magistrate it is open for this Court to quash the same. It is not necessary that a meticulous analysis of case should be done before trial to find out whether the case

would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegation therein, in the light of the statement made on oath that the ingredients of the offence are disclosed there would be no justification for this Court to interfere as held in the case of **SAU. KAMAL SHIVAJI POKARNEKAR VS. STATE OF MAHARASHTRA AND OTHERS** reported in **2019 (14) SCC 350**.

18. In the instant case, the charge sheet materials *prima facie* disclose the involvement of the petitioner in the offences for which he has been charge-sheeted. The allegations are required to be tested in a full-fledged trial. Hence, without expressing any opinion on the merits of the case, I am of the view that the proceedings against the petitioner cannot be quashed at this stage. Accordingly, the petition, being devoid of merit, is **dismissed**.

**SD/-
(RAJESH RAI K)
JUDGE**

PKS