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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 12th September 2023

Pronounced on: 16th November, 2023

+ CRL.M.C. 4304/2014 & CRL.M.A. 14880/2014 (Stay), CRL.M.A. 20773/2022 (Recalling of order dt. 09.08.2019)

RAM SAHAY MEENA KALKY & ANR Petitioners

Through: Mr. S.P. Singh, Mr. Ajit Kumar Ekka,
Mr. Abhishek Chauhan & Mr. Ajit
Kumar, Advocates.

versus

STATE & ANR Respondents

Through: Mr. Hitesh Vali, APP for the State with
SI Vijaypal Singh, P.S. C.W.C. Nanak
Pura.
Mr. Navin Sharma, Advocate for R-2.

+ CRL.M.C. 5055/2014 & CRL.M.A. 17306/2014 (Stay)

MOHAN LAL MEENA Petitioner

Through: Mr. Pradeep Gupta, Advocate.

versus

THE STATE Respondent

Through: Mr. Hitesh Vali, APP for the State with
SI Vijaypal Singh, P.S. C.W.C. Nanak
Pura.
Mr. Navin Sharma, Advocate for R-2.

+ CRL.M.C. 5066/2014 & CRL.M.A. 17345/2014 (Stay), CRL.M.A. 20162/2022 (Recalling of order dt. 09.08.2019)



JAGAN LAL MEENA Petitioner

Through: Mr. Anmol Mehta, Advocate.

versus

STATE & ANR Respondents

Through: Mr. Hitesh Vali, APP for the State with
SI Vijaypal Singh, P.S. C.W.C. Nanak
Pura.
Mr. Navin Sharma, Advocate for R-2.

+ CRL.M.C. 5072/2014 & CRL.M.A. 17360/2014 (Stay), CRL.M.A.
20224/2022 (Recalling of order dt. 09.08.2019)

RAM NARI MEENA Petitioner

Through: Mr. Raushan, Advocate.

versus

THE STATE (NCT OF DELHI) & ANR Respondents

Through: Mr. Hitesh Vali, APP for the State with
SI Vijaypal Singh, P.S. C.W.C. Nanak
Pura.
Mr. Navin Sharma, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.

1. The present petitions under Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') seek setting aside of separate impugned orders of the same date 31.05.2014, passed by the learned Additional Session Judge,



Dwarka Courts, New Delhi, whereby revision petitions filed on behalf of the petitioners herein, were dismissed. *Vide* aforesaid revision petitions, the petitioners had sought setting aside of order dated 26.10.2013, passed by the learned Metropolitan Magistrate-01, Mahila Court, Dwarka Courts, New Delhi, in case FIR No. 33/2009, registered at P.S. CWC, Nanakpura, whereby charges were framed *qua* Mohan Lal Meena under Sections 498A/406/34 of the Indian Penal Code, 1860 ('IPC') and *qua* other accused persons namely, Ram Sahay Meena Kalky, Rajeshwari Meena, Jagan Lal Meena and Ram Nari Meena under Sections 498A/34 of the IPC.

2. It is noted that by separate judgments of the same date, learned ASJ has disposed of revision petitions filed on behalf of the petitioners herein, in relation to same FIR registered at the instance of respondent no. 2. The facts and circumstances of the aforesaid revision petitions were similar and hence challenge to the impugned orders is being disposed of by a common judgment, since similar contentions have been raised by the petitioners herein.

Details of the petitions before this Court are as under:

- i. CRL.MC. 5055/2014 filed on behalf of Mohan Lal Meena, husband of the complainant assails the order dated 31.05.2014 passed by the learned ASJ in CR no. 26/2014, whereby the learned ASJ has dismissed a revision petition against an order dated 26.10.2013 passed by the learned Metropolitan Magistrate framing charges against the said petitioner for offences under Sections 498A/34 and 406 of the IPC.
- ii. CRL.MC. 4304/2014 filed on behalf of Ram Sahay Meena Kalky and Rajeshwari Meena, brother-in-law and sister-in-law of the complainant, assails the order dated 31.05.2014 passed by the learned ASJ in CR no.



07/2014, whereby the learned ASJ has dismissed a revision petition against an order dated 26.10.2013 passed by the learned Metropolitan Magistrate framing charges against the said petitioners for offences under Sections 498A/34 of the IPC.

- iii. CRL.MC. 5066/2014 filed on behalf of Jagan Lal Meena, brother-in-law of the complainant assails the order dated 31.05.2014 passed by the learned ASJ in CR no. 23/2014, whereby the learned ASJ has dismissed a revision petition against an order dated 26.10.2013 passed by the learned Metropolitan Magistrate framing charges against the said petitioner for offences under Sections 498A/34 IPC.
 - iv. CRL.MC. 5072/2014 filed on behalf of Ram Nari Meena, sister-in-law of the complainant assails the order dated 31.05.2014 passed by the learned ASJ in CR no. 22/2014, whereby the learned ASJ has dismissed a revision petition against an order dated 26.10.2013 passed by the learned Metropolitan Magistrate framing charges against the said petitioner for offences under Sections 498A/34 IPC.
3. Briefly stated, the facts of the present case are as under:
- i. Smt. Sheela Meena (respondent no. 2/complainant) and Sh. Mohan Lal Meena (petitioner in CRL. MC 5055/2014) got married on 15.05.2002, in accordance with Hindu rites and ceremonies and two children were born out of the said wedlock.



- ii. Respondent no. 2 lodged a complaint dated 23.02.2009 at the Crimes Against Women Cell ('CAWC') against the petitioners being Complaint no. 6-S/West (CWC) Nanak Pura, New Delhi. Subsequently, an FIR dated 27.09.2009, bearing No. 33/2009, under Sections 498A/406/34 of the IPC registered at P.S. CWC/Nanakpura *qua* her husband and in-laws.
- iii. Upon conclusion of investigation in the aforesaid FIR, the investigating officer filed chargesheet against five accused persons namely, Mohan Lal Meena (husband), Ram Sahay Meena Kalky (brother-in-law), Jagan Lal Meena (brother-in-law), Rajeshwari Meena (sister-in-law) and Ram Nari Meena (sister-in-law) under Sections 498A/406/34 of the IPC. Since the aforesaid accused persons were mentioned in column no. 11 they were summoned *vide* order dated 24.02.2011. Accused persons namely, Moolchand Meena and Nitesh Meena were kept in column no. 12 and summons were not issued *qua* them. The learned Metropolitan Magistrate– 01, Mahila Court, Dwarka Courts, New Delhi *vide* order dated 26.10.2013, framed charges *qua* Mohan Lal Meena (husband) under Sections 498A/406/34 of the IPC and *qua* Ram Sahay Meena Kalky (brother-in-law), Jagan Lal Meena (brother-in-law), Rajeshwari Meena (sister-in-law) and Ram Nari Meena (sister-in-law) under Sections 498A/34 of the IPC. *Vide* the aforesaid order the learned Metropolitan Magistrate discharged the brothers-in-law and sisters-in-law of the complainant under Section 406 of the IPC.
- iv. The Petitioners preferred revision petitions bearing numbers CR No. 22/2014, 23/2014, 26/2014 and 07/2014, whereby, they sought setting



aside of the order dated 26.10.2013. The said revision petitions were dismissed by the learned Additional Session Judge, Dwarka Courts, New Delhi, *vide* separate judgments dated 31.05.2014.

- v. Aggrieved by the orders passed by the learned Metropolitan Magistrate and learned Additional Session Judge, petitioners preferred the present petitions being CRL.M.C. 4304/2014, 5055/2014, 5066/2014 and 5072/2014
 - vi. *Vide* order dated 09.08.2019, a predecessor bench of this Court had directed the learned Trial Court to not record further evidence in the present FIR.
 - vii. *Vide* order dated 05.01.2023, at joint request of learned counsel for the parties and on instructions from the latter, this Court had referred the *inter se* matrimonial disputes to the Delhi High Court Mediation and Conciliation Centre. Mediation report dated 13.01.2023, received from the Delhi High Court Mediation and Conciliation Centre, states the matter is a “Non-Starter”.
4. Learned counsel for the petitioners submitted that marriage between the complainant and Mohan Lal Meena has been dissolved by the *panchayat vide* divorce decree dated 26.12.2007 (Annexure P-1, in CRL.M.C. 5055/2014). Whereas the complaint was lodged at the instance of the complainant at CAW Cell, Nanakpura on 23.02.2009 and subsequently, FIR dated 27.02.2009, bearing no. 33/2009, under Sections 498A/406/34 of the IPC was registered at P.S. CWC Nanakpura. It was further submitted that since marriage between the parties was dissolved by the *panchayat*, offence under Section 498A of the IPC cannot be framed *qua* the petitioners.



5. It was submitted that prior to registration of the present FIR, complainant had lodged several false complaints *qua* the petitioners but none of the complaints attracted offence under Section 498A of the IPC. It was pointed out that father of the complainant was the Assistant Commissioner of Police in Delhi Police at the time of registration of the present FIR.

6. In the written submissions filed on behalf of the petitioners, various discrepancies have been pointed out during examination of respondent no. 2 before the learned Trial Court which are as under:

- i. It was submitted that on 22.04.2017 when the complainant was examined before the learned Trial Court, she had stated that a complaint was lodged on 09.05.2008 at CAW Cell Nanakpura, however, in her cross examination on 17.02.2018 and 07.04.2018, she could not produce the complaint of the aforesaid date but a copy of complaint dated 05.05.2008 lodged at CAW Cell Nanakpura was produced.
- ii. It was submitted that during her examination on 02.04.2016, the complainant had stated that she was harassed by her brother in law, Ram Sahay Meena Kalky (petitioner in CRL.M.C. 4304/2014) on 06.06.2007 and 09.06.2007. But it was pointed out that during that period the aforesaid petitioner was on an official tour in Uttarakhand and had returned on 09.06.2007.
- iii. On 17.09.2016, when the complainant was re-called for her examination, she had stated that from 08.11.2007 to 14.11.2007, she was wrongfully restrained and harassed by the petitioners at Gangapur, Rajasthan. But when she was cross examined on 10.04.2019, an



application dated 12.11.2007, addressed to the Principal of KV Pithoragarh and a medical document dated 12.11.2007 were produced, wherein 34 days of sickness period was advised to the complainant.

- iv. It was further submitted that on 02.04.2016, when the complainant was examined before the learned Trial Court she had alleged that her husband/Mohan Lal Meena did not disclose her appointment letter received from Kendrya Vidyalay, Dehradun, but, in her cross-examination on 26.05.2018 the respondent was confronted with documents obtained through RTI, wherein it was mentioned that the aforesaid appointment letter was received on 07.06.2007, by her father from one Sh. BS Rawat, Asst. Commissioner in Kendriya Vidyalay.
 - v. It was further submitted that the complainant's in-laws were not residing with the complainant and her husband.
7. At this stage, it is pertinent to note that this Court cannot examine the merits of respondent no. 2's examination before the learned Trial Court for the present petitions.
8. The learned counsel for petitioners further relied on the following judgments:
- i. Kahkashan Kausar and Ors. v. State of Bihar, MANU/SC/0163/2022.
 - ii. Mohammad Miyan and Ors. v. The State of Uttar Pradesh and Ors., MANU/SC/1004/2018.
 - iii. Preeti Gupta and Ors. v. State of Jharkhand and Ors., MANU/SC/0592/2010.
 - iv. Rajiv Thapar and Ors. v. Madan Lal Kapoor, MANU/SC/0053/2013.



- v. Sarla Prabhakar Waghmare v. State of Maharashtra and Ors., MANU/MH/0060/1989.
 - vi. Rupa Debbarma v. Tapash Debbarma, MANU/TR/0304/2020.
9. Learned counsel for respondent no. 2/complainant submitted that marriage between Mohan Lal Meena and respondent no. 2 was solemnized on 15.05.2002 and two children were born out of the said wedlock. It was further submitted that petitioners tortured respondent no. 2 for demand of dowry and subsequently petitioner/husband abandoned respondent no. 2 and their children. Consequently, respondent no. 2 lodged a complaint at CAWC, Nanakpura, Delhi. Sincere efforts were made to reconcile the matter between the parties by the CAWC but the petitioners refused to cooperate and did not return the *istridhan* belonging to respondent no. 2. Subsequently, FIR bearing no. 33/2009, under Sections 498A/406/34 of the IPC registered at P.S. CWC Nanakpura. After completion of investigation chargesheet was filed before the learned Metropolitan Magistrate on 05.10.2010, under Sections 498A/406/34 of the IPC.
10. It was submitted that Mohan Lal Meena filed a civil suit in Gangapur, Rajasthan, for declaration of his marriage with respondent no.2 as null and void. It was further submitted that a transfer petition bearing no. 497/2009 was filed before the Hon'ble Supreme Court and the aforesaid civil suit was transferred from Gangapur, Rajasthan to the Court of the learned Principal Judge, Family Courts, Rohini, Delhi and was eventually registered as HMA no. 431/2010. It was submitted that an application was filed and the suit was transferred from the Family Court to the Court of learned Additional Senior Civil Judge, Rohini Courts, since the issue was civil in nature. The learned



Additional Senior Civil Judge dismissed the aforesaid suit. An appeal against the said dismissal, i.e., RCA No. 126/2018, titled ‘Mohan Lal Meena v. Sheela Meena’, is pending before the learned Additional District Judge, West, Delhi.

11. Learned counsel for respondent no. 2 submitted that petitioners have approached this Court in petitions under Section 482 of the CrPC which is in the nature of a second revision petition, after dismissal of first statutory revision petition under Section 397(3) of the CrPC and therefore, the present petitions are not maintainable. In furtherance of the same, the learned counsel relied on **Rajan Kumar Manchanda vs. State of Karnataka, 1990 (Supp) Supreme Court Cases 132**, whereby it has been held as under:

“2. ...A second Revision did not lie at the instance of the State to the High Court in view of the provisions of Section 397(3) of Cr.P.C. Obviously, to avoid this bar, the application moved by the State before the High Court was stated to be under Section 482 Cr.P.C. asking for exercise of inherent powers. In exercise of that power, the High Court has reversed the order of the Magistrate as affirmed by the Sessions Judge. The question for consideration is as to whether the bar under Section 397(3) Cr.P.C. should have been taken note of to reject the revision at the instance of the State Government or action taken by the High Court in exercise of its inherent power has to be sustained. It is not disputed by counsel appearing for the State that the move before the High Court was really on application for revision of the order of the Magistrate releasing the truck. That is exactly what is prohibited under Section 397(3) Cr.P.C. Merely by saying that the jurisdiction of the High Court for exercise of its inherent power was being invoked the statutory bar could not have been overcome. If that was to be permitted every revision application facing the bar of Section 397(3) of the Code could be labelled as one under Section 482. We are satisfied that this is a case where the High Court had no jurisdiction to entertain the revision. The appeal is allowed and we



set aside the order of the High Court. The Order of the Magistrate as affirmed by the Session Judge is upheld.”

12. Heard learned counsel for the parties and perused the record.
13. Learned Metropolitan Magistrate, while framing charges against the petitioners herein *vide* order dated 26.10.2013, has recorded as under:

“Entire case file and written arguments have been perused. Perusal of complaint reveals that complainant has levelled specific allegation of demand of Maruti Esteem car and demand of transfer of Flat no. 109 F, DDA flats, Hari Nagar in name of accused Mohan Lal Meena and the complainant has specifically levelled allegations against all accused persons by name and clearly stated that she was taken to house of Sh. Ram Sahai Meena at Rohini by her husband many times and there, all the accused persons and their wives pressurized her to transfer the flat In her husband’s name and harassed her and abused her and also beat her up.

It is well established law that at the stage of framing of charge, Magistrate is not bound to scrutinize minutely every piece of evidence on file to see whether evidence is sufficient to prove guilt of accused persons beyond reasonable doubt, rather the Magistrate has only to see that a prima facie case on the face of it, is made out against accused persons for framing charge. **Hence, it is amply clear from complaint itself that prima facie case for framing charge u/s 498-A IPC is made out against all accused persons. However, the allegations of criminal breach of trust are made out against accused Mohan Lal Meena only. Hence, prima facie case for framing charge u/s 406 IPC is made out against accused Mohan Lal Meena only and all other accused namely Ram Sahay Meena Kalky, Jagan Lal Meena, Smt. Rajeshwari Meena and Smt. Ram Nari Meena are discharged from offence u/s 406 IPC.**

Charge u/s 498-A/34 IPC framed today itself against all accused and charge u/s 406 IPC framed against accused Mohan Lal Meena to which they pleaded not guilty and claimed trial.”

(emphasis supplied)



14. The aforesaid findings were upheld by the learned ASJ, while dismissing the revision petitions filed by the petitioners herein *vide* judgment dated 31.05.2014.

15. The learned ASJ while dismissing revision petition bearing no. 26/2014, titled ‘Mohan Lal Meena v. The State (NCT of Delhi)’, has observed as under:

“25. So far as the contention of the petitioner that his marriage stands dissolved in terms of divorce deed granted by panchayat is concerned, it may be noted that the respondent 1 complainant was not present in those divorce proceedings before the panchayat and the petitioner himself has filed suit for declaration seeking declaration that his marriage with the complainant is null and void. Therefore, it can be inferred that the petitioner himself is not sure about the divorce deed granted by the panchayat. Otherwise, there was no need on his behalf to file the suit for declaration seeking dissolution of marriage. Otherwise, the question whether the marriage between the parties stood dissolved in terms of order passed by panchayat is a question of trial and at on the stage of charge evidence is not to be sifted and weighed except for limited purpose whether there is a grave suspicion that accused has committed the offence and if such suspicion is found, the Ld. Trial court will be right in framing charge against the accused. Therefore, this contention deserves to be rejected, and is hereby rejected.

26. So far as the ratio of Mohini Devi case (supra) is concerned the same is to the effect that family court under section 13 of the Hindu Marriage Act is not empowered to declare that the marriage has already been dissolved by the order passed by the panchayat and that is why issue no. 1 was omitted as redundant by the Hon’ble High Court in that case. But in the present case, the suit for declaration is filed by the petitioner seeking declaration of dissolution of his marriage meaning thereby the deed of divorce granted by Panchayat has not attained finality. Similarly, the ratio of Damodar case (supra) is also to the effect that matrimonial court could not entertain the issue whether the marriage between the



parties has already been dissolved by the panchayat as per the custom, therefore, ratio of this case is not going to help the case of the petitioner. In the same way in Surajmani Stella Kujur case (supra) the question involved was whether the offence of bigamy was made out as the alleged second marriage could not be termed as void under the custom having force of law. In present case, the pendency of civil suit filed by the petitioner in respect of his marriage makes the case of the petitioner distinguishable from the law laid down in this case.

28. But in the present case, there are allegations against all the persons including petitioner that they had beaten, tortured, harassed the complainant/respondent therefore ratio of Omkar Nath Mishra case (supra) is not applicable to the facts in the present case. Similarly in Savtri Devi case (supra) only allegations against the accused therein was that they did not like the clothes brought by the complainant, and one of the accused therein had stated that had the marriage taken place with her younger sister more dowry would have received and those allegations were found by the Hon'ble High Court as not constituting cruelty, harassment u/s. 498A. But in present case, there are specific allegations against the petitioner. Similarly ratio of Smt. Neeru Singh case (supra) is also not applicable in the facts and circumstances of the present case as the allegations in this case were found to be vague allegations as each and every member of the family of the husband was implicated and which could not be accepted by any court on face value. But in the present case there are specific allegations against all the accused persons including petitioner. In the same way the ratio of Neelu Chopra case (supra) is clearly distinguishable to the facts of the case of the petitioner in as much as no specific allegations were found against the petitioner in that case and all the allegations were found against the accused Rajesh in that case, therefore, the ratio of this case is not applicable to the facts of the present case.

29. In the present case from the plain reading of the FIR, it is clear that the facts mentioned in that, taken on the face value make out a prima facie case against the petitioner I accused that he has harassed the complainant/respondent with a view to forcing her or any person related to her to meet unlawful demand of the petitioners, therefore, from the material on record, it cannot be ruled out that the complainant/respondent



was not being harassed by the petitioner and some of her articles of *istridhan* are still lying with the petitioner.

30. From the above discussion, I am of the opinion that Ld. Trial Court has not committed any illegality while passing the impugned order. So this petition is devoid of merits and is hereby dismissed.”

(emphasis supplied)

16. The learned ASJ while dismissing revision petition bearing no. 23/2014, titled ‘Jagan Lal Meena v. The State (NCT of Delhi)’, has observed as under:

“26. So far as the date of FIR is concerned in the impugned order as 27.2.2009 where the FIR in question was registered on 27.2.2009 is immaterial as the same is typographical mistake, which could be rectified as per the mandate of section 362 Cr.P.C. But so far as the date time and place on which the complainant was being harassed, torture and beaten by the accused persons including the petitioner, the complainant in his complaint on the basis of which the FIR in question was lodged has leveled specific allegations against all the accused persons including the petitioner. **Therefore, it cannot be stated that all the allegations against the accused persons including the petitioner are general in nature because each accused has been assigned specific role as to how the complainant was being abused, taunted, tortured and harassed for bringing insufficient dowry and for further not bringing car for accused Mohan Lal Meena and transferring the flat, in question, in the name of Mohan Lal Meena.** Sharing of household of the complainant by the petitioner is immaterial as the complainant has levelled specific allegations against the petitioner that she was a party to the harassment inflicted on her by her in-laws including the petitioner. Therefore even if it is presumed for the sake of arguments that the petitioner is residing separately from the complainant and her husband Mohan Lal Meena but in view of the allegations as contained in the FIR at this stage it cannot be stated that no allegations of cruelty or harassment has been levelled by the complainant against the petitioner. Ld. Trial court has observed in the order that the Flat No. 109 DDA is in the name of wife of the accused Mohan Lal Meena/ complainant, therefore, the contention that the finding recorded by the Ld. Trial Court is



contrary to the record does not hold water and is also hereby rejected.

27. So far as the contention of Ld. Counsel for the petitioner that the Ld. Trial Court has not taking into consideration that in DD entry no specific role has been assigned to the petitioners, and findings recorded by Ld. Trial Court appears to be contradictory to the material on record appears to be attractive but the same is fallacious and the same is hereby rejected in as much as the present FIR at this stage contains specific allegations against the petitioners regarding cruelty and harassment inflicted on the complainant by all the accused persons including the petitioner and those Dds are having no concern petitioner and those DDs are having no concern whatsoever with the present FIR and on the basis of the same petitioner cannot be discharged. These issues are not to be dealt with at the stage of charge. Similarly, the contention regarding not placing on record complaint dt. 9.5.2008 as a part of the charge sheet deserves to be rejected, as the complainant was being harassed and tortured for dowry right from the beginning of her marriage therefore non production of complaint dated 9.5.2008 made by the complainant is not going to effect the case of prosecution at the stage of charge.

28. .So far as ratio of the case laws Neelu, Savitri, Dalip (*supra*) is concerned, in those case Ld. Honble Supreme Court had not found allegations worth the name against the accused/appellant therein, therefore, the ratio of said judgments is not applicable to the facts and circumstances of the case of the petitioner. Similar in Preeti Gupta (*supra*), there was no specific allegations against the appellant therein in the complaint and no other witness in that case have alleged any role to the appellants and the appellants were found to be resident of Gujrat and Maharashtra and they had no occasion to pay visit to the matrimonial house of the complainant therein. The implications of the appellants there were found to be made in order to harass and humiliate family members. But in the present case there are specific allegations against the husband and other in-laws. Therefore ratio of this case law is not applicable to the facts of the present case.

29. In the same manner, in L.Muni Swamy(*supra*) Honble Supreme



court has observed that the evidence against the respondent therein is whole inadequate to sustain the charge that they were in any manner connected with the assault on the complainant but in the present case there is sufficient material to raise a grave suspicion that the petitioner has inflicted cruelty and harassment upon the complainant for demand of dowry. Therefore this case law is distinguishable to the facts of the present case.

30. Similarly In Manju Ram Katia (*supra*) the matter was considered in appeal from the judgment passed by the High Court of Gawhati and the judgment does not deal with the matter at the stage of charge. In this case also Ld. Trial court has observed that there was no evidence of cruelty on the part of appellants therein, that drove the complainant to commit suicide, therefore, ratio of this judgment is not applicable to the facts of the case of the petitioner. Similarly in Dr. V.N.Sharma case(*supra*) the petitioner therein was found distant relative of the husband, but in the present case the complainant happens to be the sister-in-law of the petitioners. In case Smt. Neera Singh (*supra*) allegations made against the accused petitioner, therein were found vague and levelled against each and every family member in a revision filed by the petitioner/complainant therein against order of discharge passed by Ld. ASJ, but in the present case all the allegations against the petitioners are specific in nature, therefore, it cannot be stated that there is no ground of suspicion against the petitioner.

31. In the present case from the plain reading of the FIR, it is clear that the facts mentioned in that, taken on the face value make out a prima facie case against the petitioners/accused that they have harassed the complainant/respondent with a view to forcing her or any person related to her to meet unlawful demand of the petitioners, therefore, from the material on record, it cannot be ruled out that the complainant/respondent was not being harassed by the petitioners.

32. From the above discussion, I am of the opinion that Ld. Trial Court has not committed any illegality by passing the impugned orders. So this petition is devoid of merits and is hereby dismissed.”
(emphasis supplied)



17. The learned ASJ while dismissing revision petition bearing no. 22/2014, titled 'Ram Nari Meena v. The State (NCT of Delhi)', recorded as under:

“27. So far as the date of FIR is concerned in the impugned order as 27.2.2009 where the FIR in question was registered on 27.2.2009 is immaterial as the same is typographical mistake, which could be rectified as per the mandate of section 362 Cr.P.C. But so far as the date time and place on which the complainant was being harassed, torture and beaten by the accused persons including the petitioner, the complainant in his complaint on the basis of which the FIR in question was lodged has leveled specific allegations against all the accused persons including the petitioner. Therefore, it cannot be stated that all the allegations against the accused persons including the petitioner are general in nature because each accused has been assigned specific role as to how the complainant was being abused, taunted, tortured and harassed for bringing insufficient dowry and for further not bringing car for accused Mohan Lal Meena and transferring the flat, in question, in the name of Mohan Lal Meena. Sharing of household of the complainant by the petitioner is immaterial as the complainant has levelled specific allegations against the petitioner that she was a party to the harassment inflicted on her by her in-laws including the petitioner. Therefore even if it is presumed for the sake of arguments that the petitioner is residing separately from the complainant and her husband Mohan Lal Meena but in view of the allegations as contained in the FIR at this stage it cannot be stated that no allegations of cruelty or harassment has been levelled by the complainant against the petitioner. Ld. Trial court has observed in the order that the Flat No. 109 DDA is in the name of wife of the accused Mohan Lal Meena/complainant, therefore, the contention that the finding recorded by the Ld. Trial Court is contrary to the record does not hold water and is also hereby rejected.

28. So far as the contention of Ld. Counsel for the petitioner that the Ld. Trial Court has not taking into consideration that in DD entry no specific role has been assigned to the petitioners, and findings recorded by Ld. Trial Court appears to be contradictory to the material on record appears to be attractive but the same is fallacious and the same is hereby rejected in as much as the present



FIR at this stage contains specific allegations against the petitioners regarding cruelty and harassment inflicted on the complainant by all the accused persons including the petitioner and those Dds are having no concern petitioner and those DDs are having no concern whatsoever with the present FIR and on the basis of the same petitioner cannot be discharged. These issues are not to be dealt with at the stage of charge. Similarly, the contention regarding not placing on record complaint dt. 9.5.2008 as a part of the charge sheet deserves to be rejected, as the complainant was being harassed and tortured for dowry right from the beginning of her marriage therefore non production of complaint dated 9.5.2008 made by the complainant is not going to effect the case of prosecution at the stage of charge.

29. So far as ratio of the case laws Neelu Chopra (*supra*) is concerned, in that case Ld. Honble Supreme Court had not found allegations worth the name against the accused/appellant therein, therefore, the ratio of said judgments is not applicable to the facts and circumstances of the case of the petitioner. Similar in Preeti Gupta (*supra*), there was no specific allegations against the appellant therein in the complaint and no other witness in that case have alleged any role to the appellants and the appellants were found to be resident of Gujrat and Maharashtra and they had no occasion to pay visit to the matrimonial house of the complainant therein. The implications of the appellants there were found to be made in order to harass and humiliate family members. But in the present case there are specific allegations against the husband and other in-laws. Therefore ratio of this case law is not applicable to the facts of the present case.

30. In the same manner, in L.Muni Swamy(*supra*) Honble Supreme court has observed that the evidence against the respondent therein is whole inadequate to sustain the charge that they were in any manner connected with the assault on the complainant but in the present case there is sufficient material to raise a grave suspicion that the petitioner has inflicted cruelty and harassment upon the complainant for demand of dowry. Therefore this case law is distinguishable to the facts of the present case.

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32. In the present case from the plain reading of the FIR, it is clear that the facts mentioned in that, taken on the face value make out a prima facie case against the petitioners/accused that they have harassed the complainant/respondent with a view to forcing her or any person related to her to meet unlawful demand of the petitioners, therefore, from the material on record, it cannot be ruled out that the complainant/respondent was not being harassed by the petitioners.

33. From the above discussion, I am of the opinion that Ld. Trial Court has not committed any illegality by passing the impugned orders. So this petition is devoid of merits and is hereby dismissed.”

18. The learned ASJ while dismissing revision petition bearing no. 07/2014, titled ‘Sh. Ramsahay Meena Kalky v. The State (NCT of Delhi)’, recorded as under:

“26. So far as the date of FIR is concerned in the impugned order as 27.2.2009 where the FIR in question was registered on 27.2.2009 is immaterial as the same is typographical mistake, which could be rectified as per the mandate of section 362 Cr.P.C. But so far as the date time and place on which the complainant was being harassed, torture and beaten by the accused persons including the petitioner, the complainant in his complaint on the basis of which the FIR in question was lodged has leveled specific allegations against all the accused persons including the petitioner. Therefore, it cannot be stated that all the allegations against the accused persons including the petitioner are general in nature because each accused has been assigned specific role as to how the complainant was being abused, taunted, tortured and harassed for bringing insufficient dowry and for further not bringing car for accused Mohan Lal Meena and transferring the flat, in question, in the name of Mohan Lal Meena. Sharing of household of the complainant by the petitioner is immaterial as the complainant has levelled specific allegations



against the petitioner that she was a party to the harassment inflicted on her by her in-laws including the petitioner. Therefore even if it is presumed for the sake of arguments that the petitioner is residing separately from the complainant and her husband Mohan Lal Meena but in view of the allegations as contained in the FIR at this stage it cannot be stated that no allegations of cruelty or harassment has been levelled by the complainant against the petitioner. Ld. Trial court has observed in the order that the Flat No. 109 DDA is in the name of wife of the accused Mohan Lal Meena/ complainant, therefore, the contention that the finding recorded by the Ld. Trial Court is contrary to the record does not hold water and is also hereby rejected.

27. So far as the contention of Ld. Counsel for the petitioner that the Ld. Trial Court has not taking into consideration that in DD entry no specific role has been assigned to the petitioners, and findings recorded by Ld. Trial Court appears to be contradictory to the material on record appears to be attractive but the same is fallacious and the same is hereby rejected in as much as the present FIR at this stage contains specific allegations against the petitioners regarding cruelty and harassment inflicted on the complainant by all the accused persons including the petitioner and those Dds are having no concern petitioner and those DDs are having no concern whatsoever with the present FIR and on the basis of the same petitioner cannot be discharged. These issues are not to be dealt with at the stage of charge. Similarly, the contention regarding not placing on record complaint dt. 9.5.2008 as a part of the charge sheet deserves to be rejected, as the complainant was being harassed and tortured for dowry right from the beginning of her marriage therefore non production of complaint dated 9.5.2008 made by the complainant is not going to effect the case of prosecution at the stage of charge.

28. So far as ratio of the case laws Neelu, Savitri, Dalip (*supra*) is concerned, in those case Ld. Honble Supreme Court had not found allegations worth the name against the accused/appellant therein, therefore, the ratio of said judgments is not applicable to the facts and circumstances of the case of the petitioner. Similar in Preeti Gupta (*supra*), there was no specific allegations against the appellant therein in the complaint and no other witness in that case have alleged any role to the appellants and the appellants were found to be resident of Gujrat and Maharashtra and they had no



occasion to pay visit to the matrimonial house of the complainant therein. The implications of the appellants there were found to be made in order to harass and humiliate family members. But in the present case there are specific allegations against the husband and other in-laws. Therefore ratio of this case law is not applicable to the facts of the present case.

29. In the same manner, in L. Muni Swamy (supra) Honble Supreme court has observed that the evidence against the respondent therein is whole inadequate to sustain the charge that they were in any manner connected with the assault on the complainant but in the present case there is sufficient material to raise a grave suspicion that the petitioner has inflicted cruelty and harassment upon the complainant for demand of dowry. Therefore this case law is distinguishable to the facts of the present case.

30. Similarly In Manju Ram Katia (supra) the matter was considered in appeal from the judgment passed by the High Court of Gawhati and the judgment does not deal with the matter at the stage of charge. In this case also Ld. Trial court has observed that there was no evidence of cruelty on the part of appellants therein, that drove the complainant to commit suicide, therefore, ratio of this judgment is not applicable to the facts of the case of the petitioner. Similarly in Dr. V.N. Sharma case (supra) the petitioner therein was found distant relative of the husband, but in the present case the complainant happens to be the sister-in-law of the petitioners. In case Smt. Neera Singh (supra) allegations made against the accused petitioner, therein were found vague and levelled against each and every family member in a revision filed by the petitioner/complainant therein against order of discharge passed by Ld. ASJ, but in the present case all the allegations against the petitioners are specific in nature, therefore, it cannot be stated that there is no ground of suspicion against the petitioner.

31. In the present case from the plain reading of the FIR, it is clear that the facts mentioned in that, taken on the face value make out a prima facie case against the petitioners/accused that they have harassed the complainant/respondent with a view to forcing her or any person related to her to meet unlawful demand of the petitioners, therefore, from the material on record, it cannot be ruled out that the complainant/respondent was not being harassed by the petitioners.



32.From the above discussion, I am of the opinion that Ld. Trial Court has not committed any illegality by passing the impugned orders. So this petition is devoid of merits and is hereby dismissed.”

19. It is well settled principle of law that a second revision petition is not maintainable under section 397(3) of the CrPC and the scope of challenging two concurrent findings under Section 482 of the CrPC, is limited. The petitioners have to demonstrate that the concurrent findings of the Courts below are perverse and are beyond the facts of the case. For this Court to exercise its inherent powers under Section 482 CrPC in interfering with the concurrent findings of the two Courts below, it has to be demonstrated that the illegality in the said orders go to the very root of the matter and therefore are not sustainable in law.

20. In **Rajan Kumar Manchanda v. State of Karnataka, 1990 (Supp) Supreme Court Cases 132**, the Hon’ble Supreme Court has held as under:

“2....A second Revision did not lie at the instance of the State to the High Court in view of the provisions of Section 397(3) of Cr.P.C. Obviously, to avoid this bar, the application moved by the State before the High Court was stated to be under Section 482 Cr.P.C. asking for exercise of inherent powers. In exercise of that power, the High Court has reversed the order of the Magistrate as affirmed by the Sessions Judge. The question for consideration is as to whether the bar under Section 397(3) Cr.P.C. should have been taken note of to reject the revision at the instance of the State Government or action taken by the High Court in exercise of its inherent power has to be sustained. It is not disputed by counsel appearing for the State that the move before the High Court was really on application for revision of the order of the Magistrate releasing the truck. That is exactly what is prohibited under Section 397(3) Cr.P.C. Merely by saying that the jurisdiction of the High Court for exercise of its inherent power was being invoked the statutory bar could not have been overcome. If that was to be



permitted every revision application facing the bar of Section 397(3) of the Code could be labelled as one under Section 482. We are satisfied that this is a case where the High Court had no jurisdiction to entertain the revision. The appeal is allowed and we set aside the order of the High Court. The Order of the Magistrate as affirmed by the Session Judge is upheld.”

21. In *Surender Kumar Jain v. State & Another*, 2012 SCC OnLine Del 571, a leaned Single Judge of this Court, held as under:

“5. The issue regarding filing of petition before the High Court after having availed first revision petition before the Court of Sessions has come up before the Supreme Court and this Court repeatedly. While laying that section 397(3) Cr.P.C. laid statutory bar of second revision petition, the courts have held that High Court did enjoy inherent power under section 482 Cr.P.C. as well to entertain petitions even in those cases. But, that power was to be exercised sparingly and with great caution, particularly, when the person approaching the High Court has already availed remedy of first revision in the Sessions Court. This was not that in every case the person aggrieved of the order of the first revision court would have the right to be heard by the High Court to assail the same order which was the subject matter of the revision before Sessions Court. It was all to depend not only on the facts and circumstances of each case, but as to whether the impugned order bring about a situation which is an abuse of process of court or there was serious miscarriage of justice or the mandatory provisions of law were not complied with. The power could also be exercised by this Court if there was an apparent mistake committed by the revisional court. Reference in this regard can be made to the judgments of the Supreme Court in ***Madhu Limaye Vs. State of Maharashtra* (1977) 4 SCC 551, *State of Orissa Vs. Ram Chander Aggarwal*, AIR SC 87, *Raj Kapoor Vs. State (Delhi Administration)* 1980 Cri.L.J. 202, *Krishnan & Anr. Vs. Krishnaveni & Anr* and *Kailash Verma Vs. Punjab State Civil Supplies Corporation and Anr* (2005) 2 SCC 571.”**



22. In Varinder Kaur v. The State (NCT of Delhi) & Anr., 2017 SCC OnLine Del 10638, a leaned Single Judge of this Court, has observed as under:

21. It is worth mentioning that in the garb of petition under Section 482 CrPC, the petitioner has filed second revision petition which is not maintainable. In the case *Wajid Mirza vs. Mohammed Ali Ahmed & Ors.* 1982 CriLJ 890, the High Court of Andhra Pradesh has observed as under :-

‘23. This Court in *Re Puritipati Jagga Reddy*, (1979) 1 AJLJ 1 : AIR 1979 Andra Pra 146 at p. 149 (FB) held :

The language of sub-section (3) of Section 397 contains no ambiguity. If any person had already chosen to file a revision before the High Court or to the Sessions Court under subsection (1), the same person cannot prefer a further application to the other Court. To put it in other words, sub-sec.(1) and (3) make it clear that a person aggrieved by any order or proceeding can seek remedy by way of revision either before the High Court or the Sessions Court. Once, he has availed himself of the remedy, he is precluded from approaching the other forum. It is equally manifest from the provisions of sub-section (3) that this bar is limited to the same person who has already chosen to go either to the High Court or to the Sessions court seeking a remedy and that it does not apply to the other parties or persons.’

22. The Bombay High Court has taken the same view in the case *Inayatullah Rizwi v. Rahimatuallah & Ors.* 1981 CriLJ 1398 and observed that :

‘We are, therefore, of the view that a revision to the High Court would be tenable at the instance of a party who is unsuccessful before the Sessions Judge, or who is aggrieved by his order. In other words, a concurrent finding of the Sessions Judge and of the Courts below become final, but when the Sessions Judge reverse the order of the Court below in revision the defeated party is not precluded from moving the High Court. The consensus of judicial opinion as can be seen supports only this view.’



23. In **Pooja Walia v. State and Anr., 2011 SCC OnLine Del 2462**, a learned Single Judge of this Court has held as under:

“8. At the very outset, I must state that the present petition is in essence a second revision filed by the petitioner raising the same set of grievances which were raised by her before the learned Additional Sessions Judge. Although, the Section 482 Cr.P.C. starts with a non-obstante clause that would mean merely on account of the fact that a person has preferred a revision in the Sessions Court, he need not be necessarily debarred from assailing the order in High Court in exercise of its power in Section 482 Cr. P.C. in order to prevent abuse of process of law or to secure the ends of justice, but ordinarily in the absence of this, the Court would discourage a party to have a petition under Section 482 Cr.P.C.”

24. In the present case, the contentions raised by the petitioners are similar to those which were raised before the learned Trial Court as well as the learned Revisional Court. Both the courts below, as referred to hereinabove have analysed the material in detail and have rightly concluded that the allegations *qua* the present petitioners are specific and, therefore, proceeded to frame respective charges *qua* the present petitioners. It is also pertinent to note that the learned Trial Court at the stage of charge, after analysing the material on record, has discharged the petitioners namely Ram Sahay Meena Kalky, Smt. Rajeshwari Meena, Jagan Lal Meena and Ram Nari Meena for offence under Section 406 of the IPC. Nothing has been brought on record to demonstrate that the two consecutive findings of the courts below suffer from any illegality which goes to the root of the matter or that the same are beyond the facts of the case.

25. In view of the above, this Court does not find any illegality or infirmity in the impugned order dated 26.10.2013 passed by the learned Metropolitan



Magistrate in FIR No. 33/2009, registered at P.S. CWC/Nanakpura and subsequently, the judgment dated 31.05.2014, passed by the learned ASJ in CR No. 22/2014, 23/2014, 26/2014 and 07/2014. The learned ASJ, based on the material on record, has rightly dismissed the revision petitions filed on behalf the petitioners herein.

26. In view of the facts and circumstances of the case, this Court finds no reason to interfere with the impugned orders passed by both, the learned Metropolitan Magistrate as well as the learned Additional Session Judge. The present petitions are dismissed and disposed of accordingly.

27. Pending application(s), if any, also stand disposed of.

28. Interim order dated 09.08.2019, whereby it was directed that further evidence before the learned Trial Court may not be recorded stands vacated.

29. Copy of the judgment be sent to the concerned learned Trial Court for necessary information and compliance.

30. Judgment be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA
JUDGE

NOVEMBER, 16, 2023/sn