IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 548 of 2010
Reserved on: 06.12.2024
Date of Decision: 20.12.2024

Balwant Singh alias Rahul ...Appellant.

Versus

State of H.P. ...Respondent.

Coram
Hon'ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?[1] No

For the Appellant	:	Mr. Vinay Thakur, Advocate.
For the Respondent/State	:	Mr. Lokender Kutlehria, Additional Advocate General.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 26.11.2010 passed by learned Sessions Judge Kangra, at Dharmshala, vide which the appellant (accused before learned Trial Court) was convicted of the commission of an offence punishable under Section 498-A of Indian Penal Code (in short IPC) and order dated 30.11.2010 vide which he was sentenced as under:

Under Section 498-A	To suffer simple imprisonment for 3

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

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IPC	years, pay fine of ₹ 20,000/- and in default of payment of fine to undergo further simple imprisonment for six months.

(Parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience).

2. Briefly stated, the facts giving rise to the present appeal are that the police presented a challan against the accused for the commission of offences punishable under Section 498A, 306, read with Section 34 of IPC. It was asserted that Anju Bala (since deceased), daughter of informant Bodh Raj (PW5), was married to Rahul @ Balwant Singh (the present accused) as per Hindu rites and custom. Rahul and his parents, Rattan Chand and Krishna Devi, started harassing Anju Bala after one year of her marriage. Rahul used to supply milk. He used to tell Anju that he had suffered a loss in the milk supply business and she should bring the money from her parents. The informant paid ₹ 1.5 lakh to Anju Bala on different occasions. However, the accused, Rahul, continued to demand more money. Rattan Chand, father of accused Rahul, turned Rahul and Anju Bala out of his home. Rahul started residing in Jalandhar with Anju Bala. Rahul asked Anju Bala to bring the household article from her parents. The informant gave her a

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television, bed, almirah and fan. The accused continued to harass Anju Bala for bringing more money. Anju Bala came to her matrimonial home, where she was harassed by her parents-in-law. She went to her parent's home and told her parents about the harassment. The informant made a complaint to the Women's Cell, who summoned Rahul and his parents. They assured the police not to harass Anju Bala. The informant sent Anju Bala with the accused. The accused, Rahul, took her to Jawalji, from where they went to Dehra, Sanot. The accused did not allow Anju Bala to talk to her parents. She called the informant on 27th-28th December 2005 and said that her father-in-law had visited Sanot and taken her children with him to Pathankot. She was being harassed in her matrimonial home, and she should be taken to her parent's home. Subsequently, she committed suicide by hanging herself due to the harassment of the accused. The matter was reported to the police. An entry (Ext.PW17/A) in the daily diary was recorded at the Police Station. ASI Brahmu Ram (PW1) HHC Amir Chand, LC Surindra Kumari, and Inspector Om Prakash (PW17) went to verify the correctness of the information in the official vehicle bearing registration No. HP39-7271, which was being driven by Constable Shiv Charan. Inspector Om Parkash found the door of the room

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bolted from inside. He forcibly opened the door and made entry into the room. He found the dead body of Sonia @ Anju hanging with the hook of the fan with the help of her Dupatta (scarf) around her neck. He called the photographer who took the photographs (Ext.PW8/A1 to Ext.PW8/A7 whose negatives are Ext.PW8/A8 to Ext.PW8/A14). He cut the dupatta. He informed the relatives of the deceased about the death of Anju Bala. Bodh Raj (PW5) got the FIR (Ext.PW1/A) registered in the Police Station. Inspector Om Prakash investigated the matter. He prepared the inquest report (Ext.PW4/B and Ext.PW4/C). He filed an application (Ext.PW4/A) for conducting the postmortem examination of the deceased. Dr Puran Chand (PW4) conducted the postmortem examination of the deceased and found that she had died due to *antemortem* hanging. He preserved the ligature material, viscera and belongings of the deceased and handed them over to the police officials accompanying the dead body. He issued the postmortem report (Ext.PW4/D). Inspector Om Parkash (PW17) prepared the spot map (Ext.PW17/B). ASI Tara Singh (PW15) conducted further investigation. He seized the photocopy of the complaint and notices (Ext.PW14/A and Ext.PW14/B) vide memo (Ext.PW5/A). The case property was deposited with HC Onkar Chand (PW2), who

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deposited it in Malkhana and subsequently sent it to SFSL, Junga through HHC Nek Chand to RFSL vide R.C. No. 5/2021. The results of the analysis (Ext.PW4/E and Ext.PW13/A) were issued in which it was shown that no poison/alcohol could be found in the viscera. Dupatta was capable of bearing a weight of 72 kgs, and the death could have been caused by using the Dupatta for hanging. Statements of remaining witnesses were recorded as per their version, and after the completion of the investigation, the challan was prepared and presented before the learned Additional Chief Judicial Magistrate, Dehra, who committed it to learned Sessions Judge, Kangra at Dharmshala (learned Trial Court) for trial.

3. The learned Trial Court charged the accused with the commission of offences punishable under Section 498-A and 306 read with Section 34 of IPC. The accused pleaded not guilty and claimed to be tried.

4. The prosecution examined 17 witnesses to prove its case. ASI Brahmu Ram (PW1) accompanied the police officials to the spot. He also registered the FIR. HC Onkar Chand (PW2) was working as MHC, with whom the case property was deposited. HHC Ameer Chand (PW3) carried the case property to SFSL, Junga. Dr Puran Chand (PW4) conducted the postmortem examination of the

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deceased. Bodh Raj (PW5) is the father, Ratno Devi (PW6) is the mother, Paramjeet Singh (PW7) is the brother, and Rattan Lal (PW11) is the uncle of the deceased Anju Bala. Dharam Pal (PW8) took the photographs. Kanta Devi (PW9) proved the harassment. Dinesh Thakur (PW10) and Hari Chand (PW12) were the landlords of accused Rahul and deceased Anju Bala. Dharam Chand (PW13), ASI Tara Singh (PW15) and Inspector Om Parkash (PW17) conducted the investigation. HC Ajeet Singh (PW14) is the witness to the recovery of the complaint made by Anju Bala. SI Narender Kaur (PW16) proved the signatures on the notice issued to the accused on the complaint of Anju Bala.

5. The accused, in their statements recorded under Section 313 of Cr.P.C., denied the prosecution case in its entirety. Accused Balwant@ Rahul stated that his relations with Anju Bala were cordial, and they were living happily. He did not subject her to cruelty and did not compel her to commit suicide. He tried to please the deceased to the best of his ability. She requested that her minor children be brought with her matrimonial home, but he did not accept this request because the best education was not available at the place where they were residing. The deceased used to get angry, and he tried to please her. He stated that he was

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falsely implicated. Accused Rattan Chand stated that the deceased was not residing with him or his wife. She used to reside with her husband. Accused Krishana Devi stated that she was innocent and was falsely implicated. The statement of Suresh Manchanda (DW1) was recorded in defence.

6. The learned Trial Court held that the statements of the relatives of the deceased duly proved that she was being subjected to cruelty by her husband. The relatives of the deceased had provided various household articles and money to the deceased, but the accused continued to harass her. The continuous demand for the dowry from married women in her matrimonial home amounted to mental cruelty. She had committed suicide due to the cruelty inflicted upon her. Accused Rattan Chand and Krishna Devi had severed their relations with Balwant and the deceased and they used to reside separately from the deceased and Balwant. There was insufficient evidence to show that they had inflicted cruelty upon the deceased. No person deposed that accused had abetted the commission of suicide by the deceased. There were no major contradictions in the statements of the witnesses. The testimonies of the witnesses could not be rejected simply because they were related to the deceased. Hence, the accused, Balwant, was

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convicted of the commission of an offence punishable under Section 498-A of IPC but was acquitted of the commission of an offence punishable under Section 306 of IPC. The other accused were acquitted of the commission of offences punishable under Sections 498A and 306 read with Section 34 of IPC after giving them the benefit of doubt.

7. Being aggrieved from the judgment and order passed by the learned Trial Court, the accused has filed the present appeal asserting that the learned Trial Court failed to appreciate the evidence led before it. The prosecution evidence was partisan, discrepant and insufficient to prove the case against the accused. The ingredients of Section 498-A of IPC were not satisfied. Two accused were acquitted, and one accused was convicted on the same evidence, which is not permissible. The deceased had not left any suicide note to disclose the reason for the suicide. There were major contradictions in the statements of official witnesses. There was no motive with the accused to commit the crime. Therefore, it was prayed that the present appeal be allowed and the judgment and order passed by the learned Trial Court be set aside.

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8. I have heard Mr. Vinay Thakur, learned counsel for the appellant/accused and Mr. Lokender Kutlehria, learned Additional Advocate General for the respondent/State.

9. Mr. Vinay Thakur, learned counsel for the appellant/accused, submitted that the learned Trial Court erred in convicting and sentencing the accused. There was insufficient evidence to show that the accused had subjected the victim to cruelty. Learned Trial Court had acquitted two accused and convicted the appellant/accused on the same evidence, which is not permissible. The evidence of the prosecution was insufficient to show that the deceased was being subjected to cruelty. He relied upon the judgments of ***Girdhar Shankar Tawade vs State of Maharashtra (2022) 3 Supreme 583, Vipin Jaiswal vs State of A.P (2013) 2 Supreme 485, State of H.P. vs Bansi Lal (2009) Supreme (HP) 512, Dev Raj & others vs State of Himachal Pradesh (2010) Supreme (HP) 779, Onkar Singh & Anr versus State of H.P. (2024) HHC 9987*** and ***Devinder Singh and another vs State of Himachal Pradesh in Criminal Appeal No. 507 of 2010*** in support of his submission.

10. Mr. Lokender Kutlehria, learned Additional Advocate General for the respondent/State, supported the judgment and order passed by the learned Trial Court and submitted that no

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interference is required with them. He submitted that the prosecution witnesses have consistently deposed about the demand of dowry by the accused from the deceased. The informant had provided the household articles and the money to the deceased, but the accused continued to harass the deceased. She had to take her life due to the continued harassment inflicted upon her. The learned Trial Court had rightly convicted and sentenced the accused, and no interference is required with the judgment and order passed by the learned Trial Court.

11. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

12. Dinesh Thakur (PW10) stated that accused Balwant Singh @ Rahul had taken two rooms set from him on the first floor of his house. He used to reside with his wife. The wife of the accused committed suicide by hanging, and this fact was disclosed to him by the accused. He informed the police, and the police broke open the door. He stated in his cross-examination that the couple resided in his house for about 5-6 months, and he saw them living happily together. He never saw them quarrelling with each other.

13. Similarly, Hari Chand (PW12) stated that accused Balwant @ Rahul and his wife were tenants of his house in village

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Sanot. He visited the shop of his son to serve him tea. Accused Balwant informed him that his wife had committed suicide. The police were informed, and the police broke open the door. He stated in his cross-examination that accused Balwant and his wife were living happily in his house during the period they resided as tenants.

14. Both these witnesses have consistently stated that the accused and his wife resided happily, and witness Dinesh Thakur (PW10) stated that he had not seen them quarrelling. Neither of these witnesses was re-examined by the learned Prosecutor, and the statements made by them in their cross-examination that the accused and his wife resided happily remained unrebutted.

15. In ***Javed Masood vs State of Rajasthan (2010) 3 SCC 538***, the prosecution came up with a specific version that the incident was witnessed by three witnesses, Husain Lal, Rayees and Ayub Bhai. When Ayub Bhai appeared in the Court, he stated that he saw some crowd and came to know on inquiries that the deceased was lying completely soaked in blood. He telephoned other persons who came after some time. This witness was not declared hostile. He was not even re-examined by the prosecution. It was held that his testimony made the prosecution case doubtful regarding the

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presence of other persons, and it would not be proper to rely on their testimonies. It was observed:

> "This witness did not support the prosecution case. He was not subjected to any cross-examination by the prosecution. His evidence remained unimpeached. There is no reason to disbelieve the evidence of PW-6, and no valid reason has been suggested as to why his evidence cannot be relied on and taken into consideration. The evidence of PW-6, if it is to be taken into consideration, makes the presence of PWs 5, 13 and 14 highly doubtful at the scene of occurrence. We do not find any reason whatsoever to discard the evidence of PW-6, who is an independent witness. His evidence is binding on the prosecution as it is. No reason, much less valid reason, has been stated by the Division Bench as to how evidence of PW-6 can be ignored.
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> 13. In the present case, the prosecution never declared PWs 6, 18, 29 and 30 "hostile". Their evidence did not support the prosecution. Instead, it supported the defence. There is nothing in the law that precludes the defence to rely on their evidence. This court in ***Mukhtiar Ahmed Ansari vs State (NCT of Delhi) (2005) 5 SCC 258*** observed:
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> > "30. A similar question came up for consideration before this Court in ***Raja Ram v. the State of Rajasthan (2005) 5 SCC 272***. In that case, the evidence of the Doctor who was examined as a prosecution witness showed that the deceased was being told by one K that she should implicate the accused or else she might have to face prosecution. The Doctor was not declared "hostile". The High Court, however, convicted the accused. This Court held that it was open to the defence to rely on the evidence of the Doctor, and it was binding on the prosecution.
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> > 31. In the present case, evidence of PW1 Ved Prakash Goel destroyed the genesis of the prosecution that he had given his Maruti car to police in, which police had gone to Bahai Temple and apprehended the accused.

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> When Goel did not support that case, the accused can rely on that evidence."

16. Similar is the judgment in ***Ram Sewak vs State 2004(11) SCC 259*** wherein it was held that when a discrepancy had cropped up in the cross-examination which was not clarified in the cross-examination, the benefit of the said discrepancy would go to the defence. It was observed:

> "Even assuming that there is some doubt as to the interpretation of this part of his evidence since the same is not clarified by the prosecution by way of re-examination, the benefit of the doubt should go to the defence, which has in specific terms taken a stand that the FIR came into being only after the dead body was recovered."

17. Thus, the cross-examination of these witnesses will make the prosecution case doubtful that the accused treated his wife with cruelty, due to which she committed suicide.

18. A perusal of the FIR (Ext.PW1/A) shows that the general allegations were made regarding the harassment of Sonia @ Anju Bala. It was stated in the FIR that Balwant and his parents started harassing Sonia after one year of marriage by saying that no dowry was provided to her by her parents. The accused, Balwant, used to say that he had suffered a loss in the business and the money should be brought by Sonia from her parents. The informant, the father of the deceased Sonia, had provided ₹1.5 lacs, but he was

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demanding more money. When both of them resided in Jalandhar, the accused, Balwant asked Sonia to bring household articles. He provided a television, bed, almirah etc. They resided at Sanot, where the deceased committed suicide.

19. It is apparent from the allegations in the FIR that no particulars of the date, time or place were given. It was not even mentioned which of the accused had made which kind of demand. It was stated that ₹1.5 lacs and other household articles were provided by the informant to Sonia, but the date and place of providing the money and article are missing. It was laid down by the Hon'ble Supreme Court in ***Neelu Chopra v. Bharti, (2009) 10 SCC 184: (2010) 1 SCC (Cri) 286: 2009 SCC OnLine SC 1693*** that the Court has to see that particulars of the offences committed by every accused and the role played by the accused in committing the offence are given in the complaint made to the police. It was observed: -

> "**9.** *To lodge a proper complaint, the 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 that offence.*
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> **10.** When we see the complaint, the complaint is sadly vague. It does not show as to which accused has committed what offence and what is the exact role played by these appellants

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> in the commission of offence. There could be said something against Rajesh, as the allegations are made against him more precisely, but he is no more and has already expired. Under such circumstances, it would be an abuse of the process of law to allow the prosecution to continue against the aged parents of Rajesh, the present appellants herein, on the basis of a vague and general complaint which is silent about the precise acts of the appellants." (Emphasis supplied)

20. Similarly, it was held in ***Abhishek v. State of M.P., 2023 SCC OnLine SC 1083: 2023 INSC 779*** that the tendency of false implication by way of general omnibus allegations, if left unchecked, would result in the misuse of the process of law. It was observed:

> "**13.** Instances of a husband's family members filing a petition to quash criminal proceedings launched against them by his wife in the midst of matrimonial disputes are neither a rarity nor of recent origin. Precedents aplenty abound on this score. We may now take note of some decisions of particular relevance. Recently, in ***Kahkashan Kausar alias Sonam v. State of Bihar [(2022) 6 SCC 599],*** this Court had occasion to deal with a similar situation where the High Court had refused to quash a FIR registered for various offences, including Section 498A IPC. *Noting that the foremost issue that required determination was whether allegations made against the in-laws were general omnibus allegations which would be liable to be quashed, this Court referred to earlier decisions wherein concern was expressed over the misuse of Section 498A IPC and the increased tendency to implicate relatives of the husband in matrimonial disputes. This Court observed that false implications by way of general omnibus allegations made in the course of matrimonial disputes, if left unchecked, would result in misuse of the process of law*. On the facts of that case, it was found that no specific allegations were made against the in-laws by the wife, and it

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was held that allowing their prosecution in the absence of clear allegations against the in-laws would result in an abuse of the process of law. It was also noted that a criminal trial, leading to an eventual acquittal, would inflict severe scars upon the accused, and such an exercise ought to be discouraged.

14. ***In Preeti Gupta v. State of Jharkhand [(2010) 7 SCC 667]***, this Court noted that the tendency to implicate the husband and all his immediate relations is also not uncommon in complaints filed under Section 498A IPC. *It was observed that the Courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases, such as allegations of harassment by the husband's close relations, who were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different complexion and such allegations would have to be scrutinised with great care and circumspection*.

15. Earlier, in ***Neelu Chopra v. Bharti [(2009) 10 SCC 184]***, this Court observed that the mere mention of statutory provisions and the language thereof for lodging a complaint is not the 'be all and end all' of the matter, as *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 the commission of that offence*. These observations were made in the context of a matrimonial dispute involving Section 498A IPC." (Emphasis supplied)

21. It was held in ***Achin Gupta v. State of Haryana, 2024 SCC OnLine SC 759:2024 INSC 369*** that asking a person to face criminal allegations without any specific instance of criminal misconduct amounts to an abuse of the process of the Court. It was observed:

"**18.** The plain reading of the FIR and the chargesheet papers indicate that the allegations levelled by the First Informant are quite vague, general and sweeping, specifying no

> instances of criminal conduct. It is also pertinent to note that in the FIR, no specific date or time of the alleged offence/offences has been disclosed. Even the police thought fit to drop the proceedings against the other members of the Appellant's family. Thus, we are of the view that the FIR lodged by Respondent No. 2 was nothing but a counterblast to the divorce petition & also the domestic violence case.
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> **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 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.*" (Emphasis supplied)

22. It was further held that if there is an involvement of the husband and close relative with an oblique motive, the Court should read between the lines to do substantial justice. It was observed: -

> "31. We are of the view that category 7 referred to above should be taken into consideration and applied in a case like the one on hand a bit liberally. If the Court is convinced by the fact that the involvement by the complainant of her husband and his close relatives is with an oblique motive, *then even if the FIR and the chargesheet disclose the commission of a cognisable offence, the Court with a view to doing substantial justice should read in between the lines the oblique motive of the complainant and take a pragmatic view of the matter*. If the submission canvassed by the counsel appearing for Respondent No. 2 and the State is to be accepted mechanically, then in our opinion, the very conferment of the inherent power by the Cr. P.C. upon the High Court would be rendered otiose. *We are saying so for the*

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> *simple reason that if the wife, on account of matrimonial disputes, decides to harass her husband and his family members, then the first thing she would ensure is to see that proper allegations are levelled in the First Information Report. Many times, the services of professionals are availed for the same, and once the complaint is drafted by a legal mind, it would be very difficult thereafter to weed out any loopholes or other deficiencies in the same. However, that does not mean that the Court should shut its eyes and raise its hands in helplessness, saying that whether true or false, there are allegations in the First Information Report, and the chargesheet papers disclose the commission of a cognisable offence.* If the allegations alone, as levelled, more particularly in a case like the one on hand, are to be looked into or considered, then why the investigating agency thought fit to file a closure report against the other co-accused? There is no answer to this at the end of the learned counsel appearing for the State. We say so because allegations have been levelled not only against the Appellant herein but even against his parents, brother & sister. If that be so, then why the police did not deem it fit to file a chargesheet against the other co-accused? It appears that even the investigating agency was convinced that the FIR was nothing but an outburst arising from a matrimonial dispute." (Emphasis supplied)

23. It was further held that in matrimonial disputes, the parents, including the close relatives, make a mountain out of a molehill, and every matrimonial conduct amounting to nuisance does not constitute cruelty. It was observed: -

> "**32.** Many times, the parents, including the close relatives of the wife, make a mountain out of a mole. Instead of salvaging the situation and making all possible endeavours to save the marriage, their action, either due to ignorance or on account of sheer hatred towards the husband and his family members, brings about the complete destruction of marriage on trivial issues. The first thing that comes to mind of the wife, her parents and her relatives is the Police, as if

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the Police is the panacea of all evil. No sooner the matter reaches up to the Police; then even if there are fair chances of reconciliation between the spouses, they would get destroyed. The foundation of a sound marriage is tolerance, adjustment and respecting one another. Tolerance of each other's fault, to a certain bearable extent, has to be inherent in every marriage. Petty quibbles and trifling differences are mundane matters and should not be exaggerated and blown out of proportion to destroy what is said to have been made in heaven. The Court must appreciate that all quarrels must be weighed from that point of view in determining what constitutes cruelty in each particular case, always keeping in view the physical and mental conditions of the parties, their character and social status. A very technical and hyper-sensitive approach would prove to be disastrous for the very institution of the marriage. In matrimonial disputes, the main sufferers are the children. The spouses fight with such venom in their hearts that they do not think even for a second that if the marriage would come to an end, then what will be the effect on their children? Divorce plays a very dubious role so far as the upbringing of the children is concerned. The only reason why we are saying so is that instead of handling the whole issue delicately, the initiation of criminal proceedings would bring about nothing but hatred for each other. There may be cases of genuine ill-treatment and harassment by the husband and his family members towards the wife. The degree of such ill-treatment or harassment may vary. However, the Police machinery should be resorted to as a measure of last resort and that too in a very genuine case of cruelty and harassment. The Police machinery cannot be utilised for the purpose of holding the husband at ransom so that he could be squeezed by the wife at the instigation of her parents, relatives or friends. In all cases where the wife complains of harassment or ill-treatment, Section 498A of the IPC cannot be applied mechanically. No FIR is complete without Sections 506(2) and 323 of the IPC. Every matrimonial conduct, which may cause annoyance to the other, may not amount to cruelty. Mere trivial irritations, and quarrels

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between spouses, which happen in day-to-day married life, may also not amount to cruelty"

24. Similarly, it was held in ***Mamidi Anil Kumar Reddy v. State of A.P., 2024 SCC OnLine SC 127: 2024 (2) SCR 252*** that the phenomena of false implication by general omnibus allegation in the case of matrimonial dispute are not unknown to the Court. When the allegations are general and omnibus, the prosecution should not be continued. It was observed: -

> "**14.** In the considered opinion of this Court, there is significant merit in the submissions of the Learned Counsel for the Appellants. A bare perusal of the complaint, statement of witnesses and the charge sheet shows that the allegations against the Appellants are wholly general and omnibus in nature; even if they are taken in their entirety, they do not *prima facie* make out a case against the Appellants. The material on record neither discloses *any* particulars of the offences alleged nor discloses the specific role/allegations assigned to *any* of the Appellants in the commission of the offences.
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> **15.** The phenomenon of false implication by way of general omnibus allegations in the course of matrimonial disputes is not unknown to this Court. In ***Kahkashan Kausar alias Sonam* v. *State of Bihar (2022) 6 SCC 599***, this Court dealt with a similar case wherein the allegations made by the complainant-wife against her in-laws u/s. 498A and others were vague and general, lacking any specific role and particulars. The court proceeded to quash the FIR against the accused persons and noted that such a situation if left unchecked, would result in the abuse of the process of law.
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> **17.** Considering the dicta in ***Mahmood Ali*** (supra), we find that the High Court, in this case, has failed to exercise due care and has mechanically permitted the criminal

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> proceedings to continue despite specifically finding that the allegations are general and omnibus in nature. The Appellants herein approached the High Court on *inter alia* grounds that the proceedings were re-initiated on vexatious grounds and even highlighted the commencement of divorce proceedings by Respondent No. 2. In these peculiar circumstances, the High Court had a duty to consider the allegations with great care and circumspection so as to protect against the danger of unjust prosecution."

25. It was laid down by the Hon'ble Supreme Court in ***Kailashben Mahendrabhai Patel v. State of Maharashtra, 2024 SCC OnLine SC 2621*** that general and vague allegations of cruelty made against the husband and his relatives are not sufficient to constitute cruelty. It was observed: -

> "**10.1** The tendency to make general, vague, and omnibus allegations is noticed by this Court in many decisions. In ***Usha Chakraborty v. State of W.B. 2023 SCC OnLine SC 90***, this court observed that:
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> > "16... the respondent alleged commission of offences under S tions 323, 384, 406, 423, 467, 468, 420 and 120B, IPC against the appellants. A bare perusal of the said allegation and the ingredients to attract them, as adverted to hereinbefore, would reveal that the allegations are vague and they did not carry the essential ingredients to constitute the alleged offences.... The ingredients to attract the alleged offence referred to hereinbefore and the nature of the allegations contained in the application filed by the respondent would undoubtedly make it clear that the respondent had failed to make specific allegations against the appellants herein in respect of the aforesaid offences. The factual position thus would reveal that the genesis as also the purpose of criminal proceedings are nothing but the aforesaid incident and further that the dispute involved is essentially of civil

> nature. The appellants and the respondents have given a cloak of criminal offence in the issue..."

10.2 Similarly, dealing with allegations lacking in particulars and details, in ***Neelu Chopra v. Bharti (2009) 10 SCC 184***, this court observed that:

> "7. ...what strikes us is that there are no particulars given as to the date on which the ornaments were handed over, as to the exact number of ornaments or their description and as to the date when the ornaments were asked back and were refused. Even the weight of the ornaments is not mentioned in the complaint, and it is a general and vague complaint that the ornaments were sometimes given in the custody of the appellants and they were not returned. What strikes us more is that even in Para 10 of the complaint, where the complainant says that she asked for her clothes and ornaments, which were given to the accused, and they refused to give these back, the date is significantly absent."

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12. The complaint also refers to a small incident where the complainant's brother accompanied her to the matrimonial house when appellants no. 1 and 3 are alleged to have refused to take her back, but on persuasion by her brother, she was allowed to stay. There is also a vague allegation that, when the complainant gave birth to a second child, appellants 1 and 2 came and *"quarrelled"* with the complainant, her brother, and her parents and threatened them. This Court had occasion to examine the phenomenon of general and omnibus allegations in the cases of matrimonial disputes. In ***Mamidi Anil Kumar Reddy v. State of A.P. 2024 SCC OnLine SC 127,*** this Court observed that:

> "14. ...A bare perusal of the complaint, statement of witnesses and the charge sheet shows that the allegations against the Appellants are wholly general and omnibus in nature; even if they are taken in their entirety, they do not prima facie make out a case against the Appellants. The material on record neither

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discloses any particulars of the offences alleged nor discloses the specific role/allegations assigned to any of the Appellants in the commission of the offences.

15. The phenomenon of false implication by way of general omnibus allegations in the course of matrimonial disputes is not unknown to this Court. In Kahkashan Kausar alias Sonam v. State of Bihar, this Court dealt with a similar case wherein the allegations made by the complainant-wife against her in-laws u/s. 498A and others were vague and general, lacking any specific role and particulars. The court proceeded to quash the FIR against the accused persons and noted that such a situation, if left unchecked, would result in the abuse of the process of law."

xxxx

13.1 In ***Kahkashan Kausar v. State of Bihar (2022) 6 SCC 599,*** this Court noticed the injustice that may be caused when parties are forced to go through tribulations of a trial based on general and omnibus allegations. The relevant portion of the observation is as under:

"11. ...in recent times, matrimonial litigation in the country has also increased significantly, and there is greater disaffection and friction surrounding the institution of marriage now more than ever. This has resulted in an increased tendency to employ provisions such as Section 498-A IPC as instruments to settle personal scores against the husband and his relatives.

18. ... upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that "all accused harassed her mentally and threatened her of terminating her pregnancy". Furthermore, no specific and distinct allegations have been made against either of the appellants herein, i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations

> made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can, at best, be said to have been made out on account of small skirmishes... However, as far as the appellants are concerned, the allegations made against them, being general and omnibus, do not warrant prosecution.
>
> 21. ...it would be unjust if the appellants are forced to go through the tribulations of a trial, i.e. general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this Court in varied instances that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must, therefore, be discouraged."

26. This position was reiterated in ***Dara Lakshmi Narayana v. State of Telangana, 2024 SCC OnLine SC 3682,*** wherein it was observed:

> **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.

27. In the present case, the witnesses have also not given any details and have made a general statement.

27.1. Bodh Raj (PW5) stated in his examination-in-chief that his daughter was kept happily for about one year, and thereafter,

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all the accused persons started maltreating her on account of insufficient dowry. Accused Balwant demanded more money for the extension of his business of milk. Sonia used to narrate these facts whenever she used to visit her parent's home. He gave ₹1,50,000/- on different occasions to Sonia till her death. The accused started harassing Sonia 3-4 months after the birth of a baby girl. They used to demand motorcycle, television, etc., in dowry, which articles he could not give to the accused. He clarified that these articles were not given at the time of the marriage, but he gave his old motorcycle to the accused after the birth of a male child. Accused Balwant used to maltreat Sonia, and Sonia had informed this fact to him telephonically.

27.2. Ratno Devi (PW6) stated that the accused kept Sonia properly for about one year and thereafter started quarrelling with her on the ground that she had brought less dowry with her. Sonia informed this fact when she visited her parent's home. Accused No.2 and 3 disinherited accused Balwant and Sonia, who shifted to Jalandhar. The accused did not keep Sonia properly in Jalandhar. He demanded household articles from her. She supplied utensils, an almirah, a chair set, a gas stove, beds, a scooter, etc. Balwant used to give her beatings. The accused demanded money from

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Sonia by saying that he had suffered a loss in the business of milk, so she should bring money from her parents. Sonia informed her parents about the demand for money, and they supplied ₹1.5 lacs to the accused on different occasions. She had to sell her ornaments, and she obtained ₹45,000/- from the goldsmith. Accused Balwant continued to maltreat Sonia. She went to Pathankot, where the parents of Balwant did not treat her properly. The accused also maltreated Sonia at Jawalaji and Dehra, where they resided together.

27.3. Paramjeet Singh (PW7) stated that Sonia alias Anju was his sister. She was kept well by the accused for one year, and thereafter, she was maltreated. Sonia narrated this fact when she visited her parent's home. She also said that the accused demanded more dowry. Accused Balwant was dealing in the business of supply of milk, and ₹1,50,000/- was provided to him through Sonia on 4-5 occasions because he stated that he had sustained loss in the business. Accused Balwant was disinherited by his parents, and he shifted to Jalandhar with Sonia, where accused Balwant maltreated Sonia by saying that she had not brought any items from her parents house. Numerous items, like a TV, bed, almirah, etc., were supplied to Sonia, but the accused continued to

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maltreat her. The accused also did not keep her properly at Dehra and Sanot, and this fact was narrated by Sonia to them.

27.4. Kanta Devi (PW9) stated that the accused kept Sonia happy for about one year, and thereafter they started quarrelling with her. Sonia gave birth to a baby girl, and accused No. 2 and 3 disinherited her and her husband. They shifted to Jalandhar. The accused, Balwant, asked Sonia to bring household articles from her parents. Her parents gave her a bed, television, almirah, LPG, utensils, etc. Accused Balwant kept on quarrelling with the deceased. She also gave ₹10,000/- to Sonia because Balwant had sustained a loss in the business. Her parents gave ₹1,50,000/- on different occasions to Balwant and Sonia.

27.5. Rattan Lal (PW11) stated that Sonia was kept well for about one and a half years, and thereafter, she was subjected to cruelty for bringing insufficient dowry. The accused also compelled Sonia to bring money from her parents. The parents of Balwant disinherited him from their property. He and Sonia shifted to Jalandhar. Accused Balwant maltreated the deceased at Jalandhar, and she informed her father about it. He and the informant went to Jalandhar. They provided one television, folding bed, almirah, etc. The deceased gave birth to a male child. Accused No.1 and his wife

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Sonia shifted to Himachal Pradesh and resided at Jawalamukhi and Sanot.

28. It is apparent from the statements of these witnesses that they have not given any particulars regarding the demand of the dowry. The witnesses consistently stated that ₹1,50,000/- was provided by the parents of Sonia, but they did not give the details of the occasions when the money was provided or the amount provided by the parents of Sonia to the accused on each occasion. The informant stated that he had given his old motorcycle to accused Balwant after the birth of the child, which fact was not mentioned by any other person. Rattano Devi (PW6), on the other hand, stated that a scooter was provided, which is quite distinct from the motorcycle and was not narrated by any other person.

29. The witnesses also deposed about providing the household articles when the accused, Balwant, and the deceased shifted to Jalandhar. However, the details of the household articles provided to the deceased and accused Balwant are different. Therefore, in these circumstances and especially in view of the statements of the landowners, it is difficult to rely upon the prosecution version that the accused, Balwant, used to harass the

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deceased for bringing the dowry or any dowry was provided by the informant to the accused.

30. Heavy reliance was placed upon the fact that the deceased had made a complaint to Women Cell when she was residing with her parents. The complaints (Ext.PW14/A and Ext.PW14/B) were brought on record. Unfortunately, both these documents are in Punjabi, and it is difficult to read them and understand their contents. The Court language is Hindi, and the prosecution was under an obligation to get them translated into Hindi so that they could be read in evidence. The learned Trial Court held that the contents of the complaint corroborated the testimonies of the witnesses without mentioning how the learned Trial Court could have deciphered the contents of the complaint when they were not in the language of the Court.

31. The learned Trial Court was impressed by the fact that the witnesses had consistently stated about the harassment. However, the learned Trial Court failed to notice that the allegations of the harassment were general. They were also not supported by any contemporaneous conduct. It is not shown that the parents of the deceased had taken any steps to bring her to

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their home after she complained of the harassment; therefore, reliance could not have been placed upon the statements.

32. The learned Trial Court had recorded a finding in para 24 of its judgment that the accused committed mental cruelty upon the deceased to such an extent that she committed suicide in her prime age of 26 years. The learned Trial Court at the same time held in the same para that there was no iota of evidence to prove that the accused had abetted the commission of the suicide by the deceased. If the act of the accused was such that the deceased was left with no other option but to commit suicide, the accused was liable to be convicted for the commission of an offence punishable under Section 306 of IPC. Thus, both these findings cannot stand together.

33. Rattan Lal (PW11) admitted in his cross-examination that the children of the deceased were living with their grandparents at Pathankot, whereas the accused, Balwant, and the deceased were living in Himachal Pradesh at Dehra and Jawalamukhi. Kanta Devi (PW9) also admitted in her cross-examination that accused Balwant admitted his children in BVM English Public School and BVM Child Theater at Pathankot, which are reputed schools. They were residing with their grandparents.

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The deceased wanted the children to study in school at Sanot. She brought the children to Sanot, but they were taken back to Pathankot. The deceased was unhappy because her children were residing away from her. Paramjeet Singh (PW7) also admitted in his cross-examination that the children stayed with their grandparents when the deceased and accused Balwant left for Jawalamukhi. The children were studying in school. He volunteered to say that she wanted to keep their children with her. He further stated that there are good schools at Pathankot, but the deceased wanted her children to stay with her. Ratno Devi (PW6) also admitted in her cross-examination that the children were residing with their grandparents, and Sonia had brought them with her during the holidays. Their grandfather took them to Pathankot after 2 days of their stay. The informant, Bodh Raj (PW5), admitted that accused No.2 and 3 had taken the children with them to Pathankot 2-3 days before her death.

34. These admissions show that the deceased was unhappy with the fact that her children were taken to Pathankot by her grandparents. She tried to bring them back during the vacation, but they were again taken back. It is undisputed that children were studying in good English medium schools at Pathankot. Therefore,

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the fact that the children were residing with their grandparents for a better education cannot be faulted. This makes the defence version probable that the deceased committed suicide because her children were taken away from her.

35. Therefore, the evidence led before the learned Trial Court was insufficient to prove that the accused, Balwant, treated the deceased with cruelty. Two versions appeared on record, and the prosecution version was vague and full of generalities. Learned Trial Court erred in placing reliance upon the same, and the judgment and order of learned Trial Court cannot be sustained.

36. Consequently, the present appeal is allowed, and the judgment and order passed by the learned Trial Court are ordered to be set aside. The accused is acquitted of the commission of an offence punishable under Section 498-A of IPC.

37. The fine amount, if deposited, be refunded after the expiry of the period of limitation for filing the appeal in case no appeal is preferred, and in case of appeal, the same be dealt with as per the orders of the Hon'ble Supreme Court.

38. In view of the provisions of Section 437-A of the Code of Criminal Procedure [Section 481 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)], the appellant/accused is directed to furnish

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his personal bond in the sum of ₹25,000/- with one surety in the like amount to the satisfaction of the learned Registrar (Judicial) of this Court/learned Trial Court, within four weeks, which shall be effective for six months with stipulation that in the event of Special Leave Petition being filed against this judgment, or on grant of the leave, the appellant/accused, on receipt of notice(s) thereof, shall appear before the Hon'ble Supreme Court.

39. A copy of this judgment, along with the records of the learned Trial Court, be sent back forthwith. Pending miscellaneous application(s), if any, also stand(s) disposed of.

(Rakesh Kainthla)
Judge

20th December, 2024
(Nikita)