IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.2954 of 2024

Md. Naimuddin @ Naim Noori @ Naimuddin Ansari aged about 51 – year-old, son of late Md. Yusuf Ansari by faith – Islam, by occupation- Advocate residence at: - Timber Gali, Bhitha, Kanke Road, P.O., Ranchi University, P.S.- Gonda, District – Ranchi, Jharkhand, UID No.-923519030443 … Petitioner

Versus

1. The State of Jharkhand
2. Shahla Tabassum W/O Md. Naimuddin Ansari aged about 50year old, son of late Md. Yunuf Ansari by faith- Islam, by occupation- Advocate residence at:- Timber Gali, Bhitha, Kanke Road, P.O, Ranchi University, P.S.- Gonda, District:- Ranchi, Jharkhand

… Opposite Parties

For the Petitioner : In Person
For the State : Mrs. Vandana Bharti, Addl.P.P.
For the O.P. No.2 : Dr. S. K. Chaturvedi, Advocate

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with the prayer to quash the F.I.R. of Gonda P.S. Case No.94 of 2023 corresponding to G.R. Case No.3198 of 2023 including the order dated 21.11.2023 whereby and where under on the basis of the charge-sheet submitted against the petitioner by the police, the learned Judicial Magistrate-1st Class XXI, Ranchi has taken

cognizance of the offence punishable under Section 498 A of the Indian Penal Code.

3. The allegation against the petitioner is that the petitioner while studying in I.A. married the informant but as the informant could not bear any child he again married with Nilufar Parween and for the last 10-11 years till the institution of the F.I.R., the petitioner is not talking to the informant and living with his second wife and he is assaulting her and abusing her. The petitioner along with his second wife has looted the Patta of the house constructed by the informant and assaulted her and threw out her from the house. The petitioner is having illicit relationship with two other ladies and on being protested against the same, the informant has been thrown out from her house. On the basis of the written report submitted by the informant, police registered Gonda P.S. Case No.94 of 2023 and took up the investigation of the case and after completion of the investigation police submitted charge-sheet against the petitioner for having committed the offence punishable under Section 498 A of the Indian Penal Code.

4. The petitioner, appearing in person, relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Ghusabhai Raisangbhai Chorasiya & Others vs. State of Gujarat** passed in Criminal Appeal No.262 of 2009 decided on 18.02.2015 and submits that in para-20 thereof it has been observed by the Hon'ble Supreme Court of India that illicit relationship of the husband will not amount to cruelty as envisaged in the first limb of Section 498 A IPC and the same

cannot be termed as a mental cruelty of such a degree that it would drive the wife to commit suicide.

5. The petitioner, appearing in person, next relies upon the judgment of the Hon'ble Supreme Court of India in the case of **State of Andhra Pradesh vs. M. Madhusudhan Rao** reported in **2008 7 Supreme 641** para-11 of which reads as under:-

> *"**11**. Thus, providing a new dimension to the concept of "cruelty", clause (a) of Explanation to Section 498-A I.P.C. postulates that any wilful conduct which is of such a nature as is likely to drive a woman to commit suicide would constitute "cruelty". Such wilful conduct, which is likely to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman would also amount to "cruelty". Clause (b) of the Explanation provides that harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand, would also constitute "cruelty" for the purpose of Section 498-A I.P.C. It is plain that as per clause (b) of the Explanation, which, according to learned counsel for the State, is attracted in the instant case, every harassment does not amount to "cruelty" within the meaning of Section 498-A I.P.C. The definition stipulates that the harassment has to be with a definite object of coercing the woman or any person related to her to meet an unlawful demand. In other words, for the purpose of Section 498-A I.P.C. harassment simpliciter is not "cruelty" and it is only when harassment is committed for the purpose of coercing a woman or any other person related to her to meet an unlawful demand for property etc., that it amounts to "cruelty" punishable under Section 498-A I.P.C."*

and submits that harassment simpliciter is not "cruelty" and it is only when harassment is committed for the purpose of coercing a woman or any other person related to her to meet unlawful demand for property etc. then only it will amount to cruelty punishable under Section 498 A of the Indian Penal Code.

6. The petitioner further relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Achin Gupta vs. State of Haryana & Another** passed in Criminal Appeal No.2379 of 2024 arising out of **SLP (Crl.) No.4912 of 2022** decided on 03.05.2024 and submits that in para-22 wherein it has been observed by the Hon'ble Supreme Court of India that it would be a travesty of justice to hold that the proceedings initiated against a person can be interfered with at the stage of F.I.R. but not if it has materialized into a charge-sheet.

7. The petitioner next relies upon the judgment of a co-ordinate Bench of this Court in the case of **Usha Devi & Others vs. State of Jharkhand** reported in **[2009 (2) East Cr C 157 (Jhr)]** and submits that in that case, as the criminal case was filed much after filing of the matrimonial suit by the accused for seeking divorce against the informant, it was observed that the informant has filed the criminal case with malafide intention and ulterior motive for wrecking vengeance.

8. The petitioner then submits that in this case also, the petitioner has first filed O.S. No.681 of 2023 in Family Court on 27.08.2023 to dissolve his marriage with the informant and also filed O.S. No.697 of 2023 in the court of Sub Judge, Ranchi for a decree of injunction against the defendant in respect of the landed property of Khata No.73 at Bhitha Post, Ranchi. Hence, it is submitted that this false case has been instituted for wrecking vengeance.

9. The petitioner next relies upon the judgment of the Hon'ble Patna High Court in the case of **Rahul Kumar vs. The State of Bihar & Another** reported in **[2025 (1) East Cr C 196 (Pat)]** wherein the Hon'ble

Patna High Court quashed the F.I.R. which was instituted after 16 days of delay without any plausible explanation and submits that as in this case there is a delay of 57 days, hence, it is submitted that the prayer, as prayed for in the instant Cr.M.P., be allowed.

10. Learned Addl. P.P. appearing for the State and the learned counsel for the opposite party No.2 on the other hand vehemently oppose the prayer of the petitioner made in the instant Cr.M.P. and submit that the materials in the record are sufficient to constitute the offence punishable under Section 498 A of the Indian Penal Code. Hence, it is submitted that this Cr.M.P., being without any merit, be dismissed.

11. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, it is pertinent to refer Section 498 A of the Indian Penal Code which reads as under:-

> ***498A. Husband or relative of husband of a woman subjecting her to cruelty***.- *Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.*
>
> *Explanation.—For the purposes of this section, 'cruelty' means—*
>
> *(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or*
>
> *(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.*

A plain reading of the explanation which defines 'cruelty' for the purpose of Section 498 A goes to show that 'cruelty' as defined in Explanation (a) of Section 498 A of the Indian Penal Code is made out upon commission of any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman.

12. Now, coming to the facts of the case; the only allegation against the petitioner is that the petitioner used to *"Marpit"* the informant and drove the informant out from the house. This cannot amount to harassment with a view to coerce the woman to meet the unlawful demand and thus the same will not amount to 'cruelty' under Explanation (b) of the Section 498 A of the Indian penal Code. Further, in absence of any allegation that the wilful conduct of the petitioner was of such a nature that it was likely to drive the informant to commit suicide or cause grave injury or danger to life or health, this Court is of the considered view that even if the entire allegations made against the petitioner are considered to be true in their entirety; still the same is insufficient to constitute the offence of cruelty as has been defined in Explanation (a) of the Section 498 A of the Indian Penal Code.

13. In view of the discussions made above, as the materials in the record are insufficient to constitute the offence punishable under Section 498 A of the Indian Penal Code, hence, the continuation of this criminal proceeding against the petitioner will amount to abuse of process of law. Therefore, it is a fit case where the F.I.R. of Gonda P.S.

Case No.94 of 2023 corresponding to G.R. Case No.3198 of 2023 including the order taking cognizance dated 21.11.2023 in connection with the said case be quashed and set aside.

14. Accordingly, the F.I.R. of Gonda P.S. Case No.94 of 2023 corresponding to G.R. Case No.3198 of 2023 including the order taking cognizance dated 21.11.2023 in connection with the said case is quashed and set aside against the petitioner.

15. In the result, this Cr.M.P. stands allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 02nd of December, 2025
AFR/ Animesh
Uploaded on- 10/12/2025