**Serial No. 105**

# HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

**CRM(M) No. 613/2024**
**CrlM No. 1515/2025**

Date of Pronouncement: 19.11.2026.
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1. Sanjay Arora, …..Appellant(s)/Petitioner(s)
   S/o Late Sh. Roshan Lal
   R/O H.No. 64, Sector-2,
   Gali No. 5, Delhi-110051.

2. Sangeeta Khanna,
   W/o Rakesh Khanna,
   R/O. H.No. 419, Ramesh Nagar,
   West Delhi, Delhi-110015.

3. Sumit Khanna,
   S/O Rakesh Khanna
   R/O H.No. 419, Ramesh Nagar,
   West Delhi, Delhi-110015.

4. Meena Popli,
   W/O Naresh Popli.

5. Naresh Popli,
   Husband of Meena Popli,
   Both R/O WZ 430-A, First Floor
   Nanakpuri, Hari Nagar, South West
   Delhi-110064.

6. Vijay Kumar, S/O Raj Dutt.

7. Nirmal Kumari, W/O Vijay Kumar,
   Both residents of G-1145, Phase-1,
   Budh Vihar, Sultanpuri C Block,
   North West Delhi-110086.

8. Ravesh Kumar, S/O Sarban Kumar

9. Shoba Dingra, W/O Ravesh Kumar,
   Both residents of 9-B,
   Opposite Radhapuri, New Krishna
   Nagar, East Delhi-110051.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

10. Indu Arora,
W/O Ajit Arora,
R/O 64/3, Radhapuri,
Phase-II, Sector-5,
Karan Nagar,
East Delhi-110051.

Through: Mr. C.S. Gupta, Sr. Advocate with
Ms. Snigdha Shekhar, Adovcate

**vs**

1. Union Territory of Jammu and Kashmir, ….. Respondent(s)
through Commissioner/Secretary Home,
Civil Secretariat Srinagar.

2. SHO/In Charge, Police Station,
Women Cell, Gandhi Nagar,
Jammu. 180004.

3. Kailash Arora
D/O Late Sh. Inder Kumar Sethi
R/O 3511, Mohalla Paharian,
Jammu. 180001.

Through: Mr. Anuj Dewan Raina, Advocate for R-3.

**CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

**ORDER**

1. Heard learned counsel for the parties.

2. The petitioners, who are the husband, in-laws and close relatives of respondent No. 3, have invoked the jurisdiction of this Court seeking quashment of FIR No. 30/2024, registered pursuant to an order passed by the learned Sub Judge, Special Mobile Magistrate (Electricity), Jammu, in exercise of powers under Section 156(3) Cr.P.C., for the commission of offences punishable under Sections 498-A, 109 and 506 IPC. The principal contention of the petitioners is that the impugned FIR constitutes a manifest abuse of the process of law, particularly when the parties have been

embroiled in matrimonial litigation before different Courts since the year 2011. It is contended that the allegations contained in the complaint, even if taken at their face value, do not disclose the essential ingredients of the offences alleged against the petitioners.

3. Learned counsel for the petitioners submits that respondent No. 3 has already instituted several proceedings against petitioner No. 1, including proceedings under the Protection of Women from Domestic Violence Act and Section 125 Cr.P.C. It is further submitted that, earlier, when petitioner No. 1 instituted a petition seeking dissolution of marriage, respondent No. 3, as a counterblast thereto, lodged FIR No. 74/2014 against him and his relatives. The said FIR was subsequently quashed by this Court vide order dated 03.06.2017, following an amicable settlement between the parties. Pursuant to the settlement, petitioner No. 1 withdrew the divorce petition, whereafter the parties resumed cohabitation and continued their matrimonial relationship.

4. The petitioners further contend that it is respondent No. 3 who is unwilling to resume matrimonial cohabitation and has been levelling false and exaggerated allegations against petitioner No. 1 and his family members. It is submitted that, before directing registration of the impugned FIR, the learned Magistrate had called for a report from the SHO, Police Station Women Cell, Jammu. The police, upon conducting an enquiry, reported that the dispute was essentially matrimonial in nature and that the parties required counselling. The report further indicated that, notwithstanding the registration of the earlier FIR, respondent No. 3 had resumed matrimonial relations with petitioner No. 1, who was willing to take her back, whereas

she was reluctant to join his company. According to the petitioners, despite the aforesaid report, the learned Magistrate proceeded to direct registration of the FIR without adequately considering whether the allegations disclosed the commission of any cognizable offence. It is, therefore, urged that the impugned FIR deserves to be quashed.

5. *Per contra*, learned counsel appearing for respondent No. 3 has vehemently opposed the petition, contending that the complainant had been subjected to persistent acts of cruelty and harassment at the hands of the petitioners, which had earlier compelled her to lodge criminal proceedings against them. It is submitted that the earlier dispute was amicably settled in the legitimate expectation that petitioner No. 1 and his family members would mend their conduct and discharge their matrimonial obligations. However, according to respondent No. 3, the acts of cruelty and harassment continued even after the reconciliation.

6. It is further alleged that petitioner No. 1 has been acting under the influence of his sister-in-law (*Bhabhi*), stated to be petitioner No. 2, who has been interfering in the matrimonial relationship and preventing petitioner No. 1 from discharging his obligations towards respondent No. 3. The complainant has also attributed her miscarriages in the years 2013 and 2014 to the alleged acts of cruelty and harassment. It is her further case that, even after resumption of cohabitation, she was not permitted to lead a peaceful matrimonial life and was subjected to various acts of domestic violence. The petitioners are also alleged to have demanded an amount of ₹20 lakhs as dowry from respondent No. 3 and her family members, thereby compelling her to initiate the present criminal proceedings.

7. Respondent No. 3 has further alleged that the petitioners have been unnecessarily interfering in her matrimonial affairs and instigating petitioner No. 1 to subject her to cruelty and harassment. It is contended that the complaint, read as a whole, clearly discloses the commission of cognizable offences and, therefore, the learned Magistrate was justified in directing registration of the FIR under Section 156(3) Cr.P.C. Consequently, it is urged that the investigation ought to be permitted to proceed to its logical conclusion without interference by this Court.

8. The background of the matrimonial dispute is, by and large, undisputed. The marriage between petitioner No. 1 and respondent No. 3 was solemnised in the year 2011. According to respondent No. 3, she suffered miscarriages in the years 2013 and 2014 on account of the alleged cruelty and harassment inflicted upon her by the petitioners. Subsequently, petitioner No. 1 instituted a petition seeking dissolution of marriage before a competent Court at Delhi. Respondent No. 3, in turn, lodged FIR No. 74/2014 against petitioner No. 1 and thirteen of his relatives, alleging commission of offences under Section 498-A IPC. The parties thereafter arrived at an amicable settlement, pursuant to which petitioner No. 1 withdrew the divorce petition and both sides expressed their willingness to resume matrimonial cohabitation. Taking note of the settlement, this Court, vide order dated 03.06.2017, quashed FIR No. 74/2014. Thus, the earlier criminal proceedings came to an end in the year 2017, whereafter the parties admittedly resumed cohabitation for some time.

9. It appears that matrimonial discord resurfaced sometime after the year 2022, leading respondent No. 3 to institute proceedings under the

Protection of Women from Domestic Violence Act. Petitioner No. 1, on the other hand, instituted a fresh petition for dissolution of marriage in the year 2023 before the competent Court at Karkardooma, New Delhi. In the said proceedings, respondent No. 3 moved an application seeking maintenance *pendente lite*. She also instituted separate proceedings under Section 125 Cr.P.C. for grant of maintenance, which are stated to be pending before the Court of the Additional District Judge, Family Court, Jammu. Subsequently, respondent No. 3 approached the learned Special Mobile Magistrate by way of an application under Section 156(3) Cr.P.C., alleging commission of offences under Section 498-A IPC and other allied provisions against the petitioners.

10. It is not in dispute that, during the pendency of the proceedings before the learned Magistrate, a report was called for from the SHO, Police Station Women Cell, Jammu. The report indicated the existence of matrimonial discord between the parties and suggested that they required counselling. Learned counsel for the petitioners has placed considerable reliance upon the said report to contend that the allegations did not disclose the commission of any cognizable offence, much less an offence punishable under Section 498-A IPC. It is further urged that the application under Section 156(3) Cr.P.C. was bereft of specific allegations constituting the essential ingredients of the offences attributed to the petitioners.

11. A perusal of the complaint forming the basis of the impugned FIR reveals that, according to respondent No. 3, the matrimonial relationship became strained and the parties started residing separately after the year 2022. The principal allegation levelled against petitioner No. 1 is that he demanded

₹20 lakhs as dowry and made her return to the matrimonial home at Delhi conditional upon fulfilment of the said demand. It is further alleged that, in June 2020, petitioner No. 1, along with his sister-in-law (*Bhabhi*), physically assaulted respondent No. 3 and questioned her failure to arrange the demanded amount. The complainant has also alleged that, when she visited Delhi on 22.03.2023, petitioner No. 1 again subjected her to physical assault, harassment and cruelty within two or three days of her arrival, while reiterating the demand for ₹20 lakhs. It was in the backdrop of these allegations that respondent No. 3 returned to Jammu and subsequently initiated the criminal proceedings in question.

12. Significantly, apart from the allegations directed against petitioner No. 1 and his sister-in-law, the complaint does not appear to attribute any specific overt act to the remaining petitioners. Although as many as ten persons have been arrayed as accused, the complaint does not set out distinct instances of cruelty, harassment, intimidation or abetment attributable to each of them. Even the identity and role of the sister-in-law referred to in the narrative of the complaint are not clearly delineated with reference to the array of accused. The complainant has further alleged that, following the death of her elder brother-in-law (*Jeth*) in June 2020, accused No. 1, with the assistance of accused No. 2, turned her out of the matrimonial home for two days, compelling her to spend the said period on the street. Beyond these allegations, the complaint does not disclose any specific incident involving the remaining accused persons.

13. What also emerges from the record is that one of the principal incidents relied upon by respondent No. 3 is stated to have occurred in June 2020,

whereas the complaint invoking Section 156(3) Cr.P.C. was instituted only in the year 2023. In the intervening period, respondent No. 3 had already taken recourse to proceedings under the Domestic Violence Act and had also sought maintenance. The record further indicates that petitioner No. 1 had instituted a fresh petition for dissolution of marriage in the year 2023. The sequence of these proceedings, the nature and specificity of the allegations, and the circumstances in which the present complaint came to be instituted are, therefore, matters requiring consideration while examining whether the continuation of the impugned criminal proceedings against all the petitioners is legally sustainable. At the same time, the allegations pertaining to the incident of March 2023 must be independently examined, since the mere existence of earlier matrimonial litigation or delay in reporting an alleged incident cannot, by itself, furnish a sufficient ground for quashing criminal proceedings.

14. It is settled proposition of law that the inherent powers of this Court under Section 482 Cr.P.C. are required to be exercised sparingly and with circumspection, particularly when the Court is called upon to examine the legality of criminal proceedings at the threshold. However, where the allegations contained in the complaint, even if taken at their face value and accepted in their entirety, do not disclose the commission of any cognizable offence against the accused, or where the criminal proceedings manifestly appear to have been instituted with an ulterior motive, this Court would be justified in exercising its inherent jurisdiction to prevent abuse of the process of law and to secure the ends of justice.

15. The Hon'ble Supreme Court in **"*State of Haryana and others v. Bhajan Lal and others*"**, **1992 Supp (1) SCC 335**, has laid down the illustrative categories of cases wherein the extraordinary jurisdiction of the High Court can be exercised for quashing criminal proceedings. One of the categories contemplated therein is where the allegations made in the FIR or complaint are so absurd and inherently improbable that no prudent person can reach a just conclusion that there is sufficient ground for proceeding against the accused. Another category relates to proceedings manifestly attended with mala fides or maliciously instituted with an ulterior motive for wreaking vengeance on the accused. Applying the aforesaid principles to the facts of the present case, what assumes significance is that the parties have admittedly been involved in matrimonial litigation since the year 2011. The earlier criminal proceedings initiated by respondent No. 3 culminated in the quashing of FIR No. 74/2014 by this Court on 03.06.2017, pursuant to a compromise arrived at between the parties. The said compromise was followed by resumption of matrimonial relations. Thus, insofar as the allegations relating to the period preceding the said compromise are concerned, the same cannot, merely by their repetition, furnish an independent foundation for revival of the criminal proceedings which had already been brought to an end. This, however, would not prevent respondent No. 3 from seeking appropriate legal redress in respect of any fresh offence allegedly committed subsequent to the compromise.

16. This Court is, therefore, required to examine whether the complaint forming the basis of FIR No. 30/2024 contains specific allegations of cruelty or harassment constituting an offence under Section 498-A IPC

subsequent to the earlier settlement. A perusal of the complaint reveals that respondent No. 3 has attributed a demand of Rs. 20 Lakhs to petitioner No. 1 and has further alleged that she was physically assaulted in June 2020 and again in March 2023. These allegations, insofar as they relate to petitioner No. 1, cannot be brushed aside merely on the ground that the parties were already litigating before different Courts or that the complaint was lodged after the institution of divorce proceedings. The position, however, is materially different insofar as the remaining petitioners are concerned. The complaint does not disclose any specific act attributable to each of them which may constitute cruelty within the meaning of Section 498-A IPC. The allegations against the relatives of petitioner No. 1 are largely omnibus and general in nature, without specifying their individual roles, the nature of the alleged harassment, or the circumstances in which they are stated to have participated in the commission of the alleged offences. Mere relationship with the husband, without anything more, cannot constitute a sufficient basis for subjecting such relatives to criminal prosecution.

17. The Hon'ble Supreme Court in "***Geeta Mehrotra and another v. State of Uttar Pradesh and another",* (2012) 10 SCC 741**, has held that mere casual reference to the names of family members in a matrimonial dispute, without allegations of their active involvement in the commission of the alleged offence, would not justify their prosecution. Similarly, in ***"Kahkashan Kausar alias Sonam and others v. State of Bihar and others", (2022) 6 SCC 599,*** the Hon'ble Supreme Court has cautioned against the tendency to implicate the entire family of the husband on the basis of general and omnibus allegations, observing that such proceedings,

in the absence of specific allegations, may amount to abuse of the process of law.

18. In the present case, respondent No. 3 has arrayed as many as ten persons as accused. However, except for the allegations against petitioner No. 1 and the person described as his Bhabhi, the complaint is conspicuously silent regarding any specific act of cruelty committed by the other petitioners. Even with respect to the alleged involvement of the Bhabhi, the identity of the person against whom the allegations have been made and her correspondence with the persons arrayed as accused would require to be clearly established from the complaint and the material accompanying it. Criminal liability being individual in nature, it cannot be fastened upon a person merely because of his or her relationship with the principal accused. It is equally important to notice that Section 498-A IPC contemplates cruelty of such nature as is likely to drive a woman to commit suicide or to cause grave injury or danger to her life, limb or health, whether mental or physical, or harassment with a view to coercing her or her relatives to meet an unlawful demand for property or valuable security. Every matrimonial disagreement or instance of domestic discord does not necessarily constitute cruelty within the meaning of the aforesaid provision. At the same time, where specific allegations of physical assault and harassment in connection with an unlawful demand for dowry are made, the same cannot be discarded at the threshold merely because the parties have a history of matrimonial litigation.

19. The report submitted by the SHO, Police Station Women Cell, which suggested counselling of the parties, is also required to be appreciated in its

proper perspective. The said report undoubtedly indicates that the investigating agency, upon conducting a preliminary enquiry, found the dispute to be predominantly matrimonial in character. However, the opinion expressed by the police that the parties required counselling cannot, by itself, be treated as a conclusive determination that no cognizable offence had been committed. The Magistrate, while exercising jurisdiction under Section 156(3) Cr.P.C., was required to apply judicial mind to the allegations contained in the complaint and the material placed before the Court. In **"*Priyanka Srivastava and another v. State of Uttar Pradesh and others"***, **(2015) 6 SCC 287**, the Hon'ble Supreme Court has emphasised that an order under Section 156(3) Cr.P.C. cannot be passed mechanically and that the Magistrate is required to apply judicial mind before directing investigation. The jurisdiction conferred upon the Magistrate under the aforesaid provision is not intended to be exercised as a matter of routine merely because an application alleging commission of a cognizable offence has been presented. Nevertheless, the sufficiency of the material for directing investigation must be distinguished from the sufficiency of evidence required for establishing guilt at the trial.

20. In the case at hand, the complaint contains specific allegations against petitioner No. 1 regarding the demand of Rs. 20 Lakhs and the alleged acts of physical assault and harassment after the earlier compromise. Whether such allegations are true or false is essentially a matter of investigation and cannot appropriately be determined by this Court in exercise of its inherent jurisdiction. The contention of the petitioners that the complaint was lodged as a counterblast to the divorce proceedings may be a circumstance relevant

to the defence, but the same cannot, in the face of specific allegations disclosing the ingredients of a cognizable offence, constitute the sole basis for quashing the proceedings against petitioner No. 1. Insofar as the other petitioners are concerned, however, the complaint does not disclose sufficient particulars of their alleged participation in the commission of the offences. The mere assertion that they were interfering in the matrimonial life of respondent No. 3 or instigating petitioner No. 1 to commit acts of cruelty, without disclosure of any specific incident, conduct or overt act attributable to them, cannot justify their continued prosecution. The provisions of Section 109 IPC, relating to abetment, also cannot be invoked merely on the strength of vague allegations of instigation, unless the complaint discloses facts indicating the manner in which the alleged abetment took place.

21. Similarly, insofar as the offence under Section 506 IPC is concerned, the complaint must disclose allegations of criminal intimidation involving a threat of injury to the person, reputation or property, made with the requisite intention contemplated under Section 503 IPC. A general allegation of harassment or matrimonial discord, without any specific assertion of a threat constituting criminal intimidation, would not, by itself, attract the provisions of Section 506 IPC. On the allegations noticed hereinabove, no distinct and specific act of criminal intimidation has been attributed to the petitioners so as to justify the invocation of the said provision merely as an additional penal section.

22. Viewed thus, this Court is of the considered opinion that the allegations against petitioner No. 1, particularly those relating to the demand of dowry

and physical assault in June 2020 and March 2023, disclose matters requiring investigation. The veracity of such allegations cannot be adjudicated in proceedings under Section 482 Cr.P.C. However, insofar as rest of petitioners against whom no specific act of cruelty, abetment or criminal intimidation has been alleged are concerned, permitting the criminal proceedings to continue would amount to subjecting them to the rigours of criminal prosecution without adequate factual foundation. The petition, therefore, deserves to be allowed in part. Accordingly, FIR No. 30/2024, registered for offences under Sections 498-A, 109 and 506 IPC, and the proceedings emanating therefrom, are quashed insofar as they relate to petitioners other than petitioner-husband. The prayer for quashing the FIR insofar as it relates to petitioner No. 1 is declined. Respondents shall proceed with the investigation and in case offences alleged against petitioner No.1 is made out than legal action be followed.

23. ***Disposed of*** as such, interim directions if any shall stand vacated.

**(Sanjay Parihar)**
**Judge**

**Jammu**
19.11.2026
*Rahul Sharma*

Whether the order is speaking: Yes

Whether the order is reportable: Yes