

counsels. It is noticeable in the background of our society, that generally the party appears through their advocates and they, after briefing them, pay the fees and solely trust upon the advocates to do rest of the things. Such parties are the villagers and belongs to the rural area and it is not expected from them that may have knowledge of the court's procedure. Once such party/person engaged the lawyer then he put himself in a confidence that the lawyer will look after his interest, but there is other side of the coin that if a lawyer works with due diligence, but some sorts of his inadvertence, he commits some fault, then that cannot be termed the fault committed by the party and therefore, such person should not be held liable for the faults/lapses on the part of their counsels. This aspect of the matter has currently been reiterated by the Hon'ble Apex Court in case of **Ashok Kumar v. New India Assurance Co. Ltd. Reported in 2024 1 SCC 357.**

15. This Court is also aware of the wide and plentitude power given under sections 528 of B.N.S.S. (Old section 482 of Cr.P.C.) and at the same time, the limitation thereof. In the instant case, prima facie, there seems to be some lapse on the part of the counsel of the applicant, might be inadvertent, though apparent from the facts and circumstances of the case and if this Court would not invoked the inherent powers, this would cause grave injustice to the applicant and would be left remedy-less, which is impermissible under the scheme of constitution of India.

16. Consequently, the relief sought by the applicant vide the present applicaiton seems to be genuine and therefore, the order dated 03.08.2024

passed by the learned trial court is hereby kept in abeyance.

17. Further the applicant had also approached the learned revisional court and the revisional court has passed the order dated 05.11.2024 in Criminal Revision bearing No. 558/2024, while affirming the order dated 03.08.2024 and therefore, the same is also kept in abeyance.

18. In view of the above-said, the applicant is given liberty to move a fresh application under the strict purview of section 33 of Act 1872, with the right texture and prayer, within a period of 30 days and if such, application is moved by the applicant, the same shall be decided by the trial court, within further period of thirty days, after giving opportunity to all concerned.

19. Accordingly, the application is hereby **allowed.**

(2025) 2 ILRA 107
ORIGINAL JURISDICTION
CRIMINAL SIDE
DATED: ALLAHABAD 19.02.2025

BEFORE

THE HON'BLE SAMIT GOPAL, J.

Application U/S 482 No. 2818 of 2020
 With
 Application U/S 482 No. 18261 of 2022
 With
 Application U/S 482 No. 36143 of 2022
 With
 Application U/S 482 No. 4446 of 2020

Surendra Kumar & Anr. ...Applicants
Versus
State of U.P. & Anr. ...Opposite Parties

Counsel for the Applicants:

Asha Parihar, Pradeep Chandra (Senior Adv.), Pratik Chandra

Counsel for the Opposite Parties:

G.A., Gajendra Kumar Gautam, Mandvi Tripathi, Rahul Kumar

Criminal Law – Indian Penal Code, 1860 - Sections 498A, 406 & 506 - Dowry Prohibition Act, 1961 - Section 3/4 - Criminal Proceedings - Quashing of - Summoning order was non-speaking order which was on typed proforma, in which gaps filled with pen - Court concerned not given any reason for summoning accused persons - Allegations against husband for offence u/s 377 I.P.C. found false, exonerated - Other two co-accused persons (nand and nandoi) assigned general role, exonerated - Husband along with other family members were accused in F.I.R., lodged with inordinate delay of 05 months. (Para 30)

Both are well educated, well placed persons - Dispute was purely matrimonial in nature - Couple have travelled to various foreign places - Clash of ego carried on for long time, resulted in lodging of F.I.R. and complaint - Allegations for violence alleged to have taken place in 2018-2019 after 02 years of marriage - Complainant carries multiple prayers including return of "Streedhan" - Complainant have been assaulted and beaten by her husband, no supporting documents to show injury received by her - Allegations are general and omnibus - Complaint filed with intention to implicate maximum number of family members for obvious reasons. (Para 31, 33)

Applications allowed. (E-13)

List of Cases cited:

1. M/S. Pepsi Foods Ltd. & anr. Vs Special Judicial Magistrate & ors. : (1998) 5 SCC 749
2. Sunil Bharti Mittal Vs C.B.I. : (2015) 4 SCC 609

3. Mehmood Ul Rehman Vs Khazir Mohammad Tunda & ors. : (2015) 12 SCC 420

4. Krishna Lal Chawla & ors. Vs St. of U.P. & anr. : (2015) 12 SCC 420

5. Inox Air Products Ltd. Now Known As Inox Air Products Pvt. Ltd. Vs The St. of Andhra Pradesh: 2025 SCC OnLine SC 209, (Paras 33 to 37)

6. Lalankumar Singh & ors. Vs St. of Mah.: (2022) SCC OnLine SC 1383

7. Sachin Garg Vs St. of U.P. & anr. : 2024 SCC OnLine SC 82

8. JM Laboratories & ors. Vs St. of Andhra Pradesh & anr. : 2025 SCC OnLine SC 208, (Paras 8, 9)

9. Kahkashan Kausar Vs St. of Bihar : (2022) 6 SCC 599, (Paras 10 to 17)

10. Payal Sharma Vs St. of Pun. & anr. : 2024 SCC OnLine SC 3473, (Paras 9 to 11)

11. Dara Lakshmi Narayana & ors. Vs St. of Telangana & anr., (Paras 11 to 16, 25, 28 to 31)

12. Geddam Jhansi Vs The St. of Telangana : 2025 INSC 160, SLP (Criminal) No. 428 of 2024, decided on 07.02.2025, (Paras 31 to 36)

(Delivered by Hon'ble Samit Gopal, J.)

1. These are four petitions filed under Section 482 Cr.P.C. which are connected together in compliance of the orders connecting them together.

2. Dispute in the matter is matrimonial in nature after matrimonial alliance was between Piyush Kaushal the son of Sri Surendra Kumar and Kumari Paru the daughter of Sri Pawan Kumar Taneja.

3. The Criminal Misc. Application U/S 482 No. 2818 of 2020 has been filed

by the applicants Surendra Kumar and Smt. Usha with the following prayers:-

“It is therefore most respectfully prayed that this Hon’ble Court may graciously be pleased to quash the entire proceedings of Case No. 24185 of 2019 (State vs. Piyush Kaushal and others) arising out of Case Crime No. 149 of 2019, under Sections 498A, 406, 506 I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station Mahila Thana, District Ghaziabad pending before learned Additional Chief Judicial Magistrate, Court No. 8, District Ghaziabad as well as to quash the charge sheet dated 02.12.2019 and also the cognizance taking order dated 19.12.2019 passed in the aforesaid case, otherwise the applicants shall suffer irreparable loss and injury which cannot be compensated in any terms.

It is further prayed that this Hon’ble Court may graciously be pleased to stay the further proceedings of Case No. 24185 of 2019 (State vs. Piyush Kaushal and others) arising out of Case Crime No. 149 of 2019, under Sections 498A, 406, 506 I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station Mahila Thana, District Ghaziabad pending before learned Additional Chief Judicial Magistrate, Court No. 8, District Ghaziabad and also to stay the effect and operation of the impugned cognizance taking order dated 19.12.2019 passed in the aforesaid case, during the pendency of the present application, otherwise the applicants shall suffer irreparable loss and injury which cannot be compensated in any terms.”

4. The Criminal Misc. Application U/S 482 No. 18261 of 2022 has been filed by the applicants Smt. Usha, Surendra Kaushal, Pooja Batla and Rajat Batla with the following prayers:-

“It is, therefore, Most Respectfully prayed that this Hon’ble Court may graciously be pleased to quash the entire proceedings of Case No. 3463/2021 filed under Section 12 of the Act, 2005, u/s 17, 18, 19, 20, 22, 23 of Act, 2005, Police Station Sahibabad, District Ghaziabad (Paru Taneja Vs. Piyush Kaushal and others) pending before Civil Judge, Junior Division/FTC-1 (Crime Against Women), District- Ghaziabad.

And/or pass such other and further order as this Hon’ble Court may deem fit and proper under the facts and circumstances of the case.”

5. The Criminal Misc. Application U/S 482 No. 36143 of 2022 has been filed by the applicant Piyush Kaushal with the following prayers:-

“It is, therefore, Most Respectfully prayed that this Hon’ble Court may graciously be pleased to quash the entire proceedings of Case No. 3463/2021 filed under Section 12 of The Protection of Women from Domestic Violence Act, u/s 17, 18, 19, 20, 22, 23 of Act, 2005, Police Station Sahibabad, District Ghaziabad (Paru Taneja Vs. Piyush Kaushal and others) pending before Civil Judge, Junior Division/FTC-1 (Crime Against Women), District- Ghaziabad and further to stay the further proceedings of Case No. 3463/2021 filed under Section 12 of The Protection of Women from Domestic Violence Act, u/s 17, 18, 19, 20, 22, 23 of Act, 2005, Police Station Sahibabad, District Ghaziabad (Paru Taneja Vs. Piyush Kaushal and others) before Civil Judge, Junior Division/FTC-1 (Crime Against Women), District- Ghaziabad and further not to initiate coercive measure against the applicant, else the applicant shall suffer irreparable loss and injury which cannot be

compensated in any term, else the applicant shall suffer irreparable loss and injury which cannot be compensated in any term.

And/or pass such other and further order as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case."

6. The Criminal Misc. Application U/S 482 No. 4446 of 2020 has been filed by the applicant Piyush Kaushal with the following prayers:-

"It is therefore most respectfully prayed that this Hon'ble Court may graciously be pleased to quash the entire proceedings of Case No. 24185 of 2019 (State vs. Piyush Kaushal and others) arising out of Case Crime No. 149 of 2019, under Sections 498A, 406, 506 I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station Mahila Thana, District Ghaziabad pending before learned Additional Chief Judicial Magistrate, Court No. 8, District Ghaziabad as well as to quash the charge sheet dated 02.12.2019 and also the cognizance taking order dated 19.12.2019 passed in the aforesaid case, otherwise the applicant shall suffer irreparable loss and injury which cannot be compensated in any terms.

It is further prayed that this Hon'ble Court may graciously be pleased to stay the further proceedings of Case No. 24185 of 2019 (State vs. Piyush Kaushal and others) arising out of Case Crime No. 140 of 2019, under Sections 498A, 406, 506 I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station Mahila Thana, District Ghaziabad pending before learned Additional Chief Judicial Magistrate, Court No. 8, District Ghaziabad and also to stay the effect and operation of the impugned cognizance taking order dated 19.12.2019 passed in the aforesaid

case, during the pendency of the present application, otherwise the applicant shall suffer irreparable loss and injury which cannot be compensated in any terms."

7. In Criminal Misc. Application U/S 482 No. 4446 of 2020 an order was passed on 07.11.2023 which reads as under:-

"1. List revised.

2. Heard Ms. Asha Parihar, learned counsel for the applicant, Sri Ajay Singh, learned A.G.A.-I for the State and perused the records.

3. Sri Gajendra Kumar Gautam, learned counsel for the opposite party no. 2 is not present even when the matter has been taken up in the revised list.

4. On 03.10.2023 also there was no representation from the side of the opposite party no. 2 and in the interest of justice, the matter was adjourned. Today also there is no representation on behalf of the opposite party no. 2.

5. In view of the same in the interest of justice, the matter is adjourned for today.

6. Let the matter be listed on 29.1.2024.

7. Interim order, if any, shall remain in currency till the next date of listing."

8. Against the said order dated 07.11.2023, Ramneek Taneja the mother of Kumari Paru filed a ***Special Leave Petition (Criminal) Diary No(s). 4776/2024, Ramneek Taneja vs. State of Uttar Pradesh and another***, which was although dismissed by the Apex Court vide order dated 15.07.2024 but request was made to the High Court to expedite the hearing of the case bearing Criminal Misc. Application No. 4446/2020. The said order dated 15.07.2024 reads as under:-

“Delay condoned.

This impugned order being interim in nature, we do not find any ground to interfere with the same. However, we find force in the grievance of the petitioner that the matter has been languishing without adjudication for four years. Thus, we request the High Court to expedite the hearing of the case bearing Criminal Misc. Application No. 4446/2020.

The Special Leave Petition is, accordingly, dismissed.

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

9. Hearing of all the four petitions concluded on 09.01.2025 but subsequent to conclusion of hearing, learned counsels for the parties submitted that although arguments in the matter have concluded but still efforts for amicable settlement of the dispute between the parties is in the pipeline which is expected to get a final touch within a period of two weeks and they shall be intimating the Court about the outcome of the same within the said period.

10. Learned counsel for the applicants, Sri Prateek Chandra, Advocate, informed the Court that efforts for settlement of the matter between the parties has failed and as such the matter be decided on its merits.

11. Heard Sri Pratik Chandra, learned counsel for the applicants in all the petitions, Sri Pranshu Gupta, learned counsel for the opposite party no. 2/first informant/complainant in all the petitions, Sri Birendra Pratap Singh, learned Additional Government Advocate for the State and perused the records.

**Ref: Criminal Misc.
Application U/S 482 No. 4446 of 2020**

**and Criminal Misc. Application U/S 482
No. 2818 of 2020**

12. Criminal Misc. Application U/S 482 No. 4446 of 2020 has been filed by Piyush Kaushal who is the husband of Paru. The other connected petition being Criminal Misc. Application U/S 482 No. 2818 of 2020 is on behalf of Surendra Kumar the father-in-law and Smt. Usha the mother-in-law of Paru. Challenge in both the said matters relates to the same. Dispute between the parties arose, subsequent to which a First Information Report was lodged by the opposite party no. 2/Smt. Ramneek Taneja on 26.07.2019 as Case Crime No. 140 of 2019, under Sections 498A, 377, 406, 506 I.P.C. and 3/4 Dowry Prohibition Act, 1961, at Police Station Mahila Thana, District Ghaziabad, against Piyush Kaushal the husband of Paru, Surendra Kumar the father-in-law, Smt. Usha the mother-in-law, Smt. Pooja Batla the nand (sister-in-law) and Rajat Batla the nandoi (brother-in-law) on the basis of an application addressed to Superintendent of Police (City), Ghaziabad alleging therein that marriage of her daughter Paru was fixed with Piyush Kaushal on 10.12.2017 and engagement was done on 03.10.2017. In the engagement she had spent about Rs. 5 lakh as per her status. Smt. Usha and Surendra Kumar the parents of Piyush Kaushal got angry with her and told her that her elder daughter Puja Batla and her son-in-law Rajat Batla told them on telephone that they are angry with them due to giving of less gifts and articles in the engagement and told them of breaking the relationship, on which they specifically told her to finish the relationship. On this she asked them specifically as to what else they want, on which they told her that they want the marriage to be solemnized of minimum of Rs.50 lakh on which for marriage was to

be solemnized on 10.12.2017 in hotel Ramada Plaza, a 5 star hotel, which was booked and Rs. 50,000/- was given as booking amount. They cancelled the marriage stating that hotel is not good. On pursuing them a lot and requesting them for life and future of the girl, they agreed and then 18.4.2018 was fixed for marriage, after which looking to the future of the girl a banquet hall in Panchkula, Haryana was booked at a price of Rs.2500/- per plate for 300 people in which about Rs.12.50 lakh was spent on the food. The other expenditure of decoration etc. was around Rs.10 lakh. In the marriage Piyush Kaushal was given a diamond ring, chain and cash money and his mother Smt. Usha Kaushal was given a gold set, father was given a ring and ginni, ring and ginni were also given to both his sister Puja Batla and her husband Rajat Batla and likewise the other sister Mili Anand and her husband Amit Anand were given gold ring and ginni and the children was given Rs.21,000/- and 'baratis' were given cash money, in which total Rs. 25 lakh was spent but still they were not satisfied with it. Her daughter was given jewellery, cloths and silver utensils in which about Rs. 30 lakh was spent. Her daughter Paru came to her house on 26.4.2018 with Piyush Kaushal wherein on that date her son-in-law consumed liquor and in her room despite her daughter having her menses was forced to have unnatural sex, which was told by her daughter later on which she stated that she did not tell it earlier to her and had pleaded Piyush Kaushal not to do so but he did not agree to it. Her daughter was in her house wherein on contact with her mother-in-law, father-in-law, nand and nandoi, they demanded Rs.25 lakh for repair of house and for purchase of house by boy on which Paru was consoled and was sent back to her matrimonial house on 15.1.2019, after

which Piyush Kaushal became agitated and used to torture her. On 03.02.2019 Paru came to her maternal house and is living separately since then. The accused persons have threatened them. Report be lodged and action be taken.

13. The matter was investigated and a charge sheet (undated) was submitted against Piyush Kaushal/husband, Surendra Kumar/father-in-law and Smt. Usha/mother-in-law, under Sections 498A, 406, 506 I.P.C. and $\frac{3}{4}$ D.P. Act. The other accused named in the F.I.R. namely Smt. Puja Batla and Rajat Batla were exonerated and their names were mentioned in Column-12 of the same in the column of the accused persons not charge sheeted. The investigating officer did not find any evidence for offence under Section 377 I.P.C. and thus expunged the same. In the investigation Smt. Ramneek Taneja/first informant, Smt. Paru Taneja and Sahaj Taneja were the alleged witnesses who were interrogated.

14. The court of Additional Chief Judicial Magistrate, Court No. 8, Ghaziabad vide order dated 19.12.2019 took cognizance upon the charge sheet and summoned the said three accused persons for offences under Sections 498A, 406, 506 I.P.C. and $\frac{3}{4}$ D.P. Act.

15. The present two petitions under Section 482 Cr.P.C. have thus been filed before this Court challenging the proceedings of the said case with the prayers as aforesaid by the respective accused persons.

16. Learned counsel for the applicants submitted that the applicants have been falsely implicated in the present case. It is submitted that falsity of the

present case is itself evident from the fact that 02 accused named in the F.I.R. namely Smt. Pooja Batla/nand and Rajat Batla have been exonerated by the police as during investigation their implication was not found in the matter. It is further submitted that even the allegation against the accused/Piyush Kaushal for the offence under Section 377 I.P.C. was found to be incorrect and as such he was exonerated under the said section after investigation. It is submitted that the First Information Report has been lodged on 26.07.2019 which is after an inordinate delay of about 05 months. It is submitted that marriage of the applicant/Piyush Kaushal was solemnized with Paru the daughter of the opposite party no. 2 and the ceremony was simple ceremony in an ideal manner without any demand of dowry. It is submitted that soon after marriage Paru along with her spouse went to United Kingdom (London) where they were working. It is submitted that since Paru had left her husband's place and was being contacted by the husband through WhatsApp chats and there being no response from her demonstrated that she does not want to live with him and thus Piyush Kaushal filed a divorce case in United Kingdom (London). It is further submitted that the applicant/Piyush Kaushal is an educated and a well-qualified person and because of some misunderstanding between him and his wife/Paru matrimonial dispute arose which has taken the shape of criminal case in the nature of F.I.R. with totally false and baseless allegations. It is further submitted that the allegations in the present matter are general and omnibus in nature. It is submitted that the applicant Surendra Kumar is an old persons aged about 79 years whereas the other applicant Smt. Usha is also an old persons aged about 69

years and they are suffering from various diseases. Learned counsel has submitted that the court taking cognizance upon the charge sheet has not applied its judicial mind and has taken cognizance and passed the summoning order dated 19.12.2019 on a printed proforma which has blanks in it which were filled by pen. It is submitted that the court concerned has not assigned any reason for passing the said order. It is submitted that the allegations against the applicants of demanding dowry is false and baseless. It is submitted that the order summoning and the proceedings are bad in the eyes of law and deserve to be quashed. It is submitted that vagueness of the allegations in the matter are apparent as there are no specific dates of the alleged incident mentioned in the same. There are general and roving allegations against the accused persons. It is submitted that as such the proceedings against the applicants be quashed.

17. Learned counsel for the opposite party no. 2 and learned State counsel vehemently opposed the petitions and the prayer for quashing and submitted that the applicants are named in the F.I.R. and there are allegations against them. It is submitted that in so far as the fact that the parties are well educated is concerned, the same is not disputed. Further both the learned counsels for the State and the opposite party no. 2 did not dispute the relationship of the applicants with Paru. It is submitted that the applicants are named in the F.I.R. and a charge sheet has been submitted against them on which the court concerned has taken cognizance. It is submitted that the present petitions be dismissed.

**Ref: Criminal Misc. Application
U/S 482 No. 18261 of 2022 and Criminal**

Misc. Application U/S 482 No. 36143 of 2022

18. These two (02) above petitions under Section 482 Cr.P.C. relate to challenge of the proceedings initiated by Smt. Paru Taneja, under Section 12 of The Protection of Women from Domestic Violence Act, 2005 for offences under Sections 17, 18, 19, 20, 22, 23, Police Station- Sahibabad, District Ghaziabad. The applicants in Application U/S 482 No. 18261 of 2022 are Smt. Usha/mother-in-law, Surindar Kaushal/father-in-law, Pooja Batla/nand and Rajat Batla/nandoi of the opposite party no. 2. The applicant in other petition being Application U/S 482 No. 36143 of 2022 is Piyush Kaushal the husband of the opposite party no. 2 Smt. Paru Taneja.

19. The facts of the case are that the opposite party no. 2 filed a complaint dated 12.11.2021 against 05 accused persons namely Piyush Kaushal (husband), Smt. Usha (mother-in-law), Surendra Kumar (father-in-law), Smt. Pooja Batla (nand) and Rajat Batla (nandoi) with the allegation that she was married to the opposite party no. 1 Piyush Kaushal therein on 18.4.2018 as per Hindu rites and rituals and marriage was performed in Panchkula, Haryana. Approximately Rs. 50 lakh was spent in the wedding and ornaments of gold, silver and diamond along with costly clothes, furnitures, household items and cash money were given in it. She after marriage and vidai, went to the house of the accused/respondents and handed over the entire jewellery to the respondents which are in their possession till date. She started discharging her marital obligations and tried to fulfil their expectations. At the time of marriage her husband was working in London due to which the accused persons

used to taunt that dowry and gifts have not been given as per their status. Her husband went to London (U.K.) on 02.5.2018 but she could not go with him as he was not having Visa. Thereafter she went there on 22.05.2018. She started discharging her marital obligations. The accused/respondent used to assault her regularly and taunt her for less dowry and used to tell her to bring Rs. 25 lakh from your parents for purchase of house else he would murder her. The respondent is a clever man. The respondent often used to be intoxicated and when she asked reason for coming at late hours, he used to assault her. After about one week of her marriage her mother-in-law, father-in-law, nand and nandoi started assaulting her for less dowry. She continued facing it but the accused persons did not mend their ways. From 02.02.2019 she and her husband are living separately without any physical relationship. Her husband in an intoxicated condition used to assault her and torture her physically and mentally and due to dispute in the relations, her mother lodged a case as Case Crime No. 0140/2019, State vs. Piyush Kaushal and others, under Sections 498A, 377, 406, 506 I.P.C. and $\frac{3}{4}$ D.P. Act. The respondent is working in London in Amazon Company at a good position and is getting Rs. 10 lakh per month as salary and is also having a lot of property. The prayers in the complaint are thus under Section 18 of the Act for an order protecting her from further domestic violence and return of "Streedhan" being vehicle, jewellery, clothes etc., under Sections 17 and 19 for providing safe place to live for which rent of Rs. 15,000/- per month be ordered to be given, under Section 20 of the Act for Rs. 5,00,000/- per month as her maintenance and under Section 22 of the Act for one time alimony of Rs. 1 crore. Further it was

prayed that entire “Streedhan” be directed to be returned to her.

20. On the said application notice dated 12.11.2021 was issued by District Probation Officer, Ghaziabad to the accused/respondents. District Probation Officer gave his report dated 12.11.2021 to the court concerned. The proceedings of the said case are thus also under challenge before this Court.

21. Learned counsel for the applicants submitted that the applicants have been falsely implicated in the present case. It is submitted that entire story in the complaint is concocted, false and an attempt to misuse the procedure of law. It is submitted that the applicant/Pooja Batla and Rajat Batla are permanent residents of London (United Kingdom) and have no concern with life and living of the complainant and her husband. It is submitted that the said persons do not share the household with any of the other persons and particularly with the complainant and her husband. It is submitted while placing para no. 26 and 27 of the affidavits in both the said petitions, that the complainant/opposite party no. 2 and her husband/Piyush Kaushal lived for around 03 days only in the house of the applicant no. 1/Smt. Usha and the applicant no. 2/Surindar Kaushal and thereafter, they went for honeymoon from 22.4.2018 to 24.04.2018 and then to the house of the parents of opposite party no. 2 from 26.4.2018 to 27.4.2018 and then both of them returned back and stayed from 27.4.2018 to 01.5.2018 at the house of the applicant no. 1 and the applicant no. 2. It is submitted that the husband went to London on 2.5.2018 and the opposite party no. 2 went to Delhi Airport to drop her husband but did not return to the house of the

applicant no. 1 and the applicant no. 2 but stayed back at the house of her parents at Sahibabad, Ghaziabad and while staying at the said place, she gave her interview for U.K. Visa on 14.5.2018 and then came back to the house of the applicant no. 1 and the applicant no. 2 and had again returned back on 17.5.2018 at Sahibabad, Ghaziabad to collect her visa and subsequently after collecting her Visa on 22.5.2018, she left for London to live with her husband on 24.05.2018. It is further submitted that from 16.07.2018 to 24.7.2018 the opposite party no. 2 and her husband went to Croatia and thereafter from 26.09.2018 to 01.10.2018 they went to Rome, Italy and to Venice, Italy from 12.10.2018 to 15.10.2018 and all the expenses were borne solely by her husband. It is submitted that the opposite party no. 2 left the house of her husband at London without informing him on 18.12.2018 after which on intervention of some family members they convinced his wife to live with him again who then returned back on 21.12.2018 and started living with him in London. Subsequently on 26.12.2018 the opposite party no. 2 packed her all the articles and forced her husband to drop her to airport as she wanted to leave for India, but surprisingly on 15.1.2019 she without informing her husband, reached back to home at London. It is submitted that the marriage was a love marriage as the opposite party no. 2 and Piyush Kaushal used to study together in the year 2015 and in the year 2016 and they decided to get married and Roka Ceremony took place in October 2017, after which some issues arose between the family which were later on resolved and then they married each other. It is further submitted that the opposite party no. 2 is a highly educated woman and has worked at various high posts, the details of the same have been

given in para-42 of the affidavit which are as under:-

“(a) 2012-2015 working with a multi national firm Price Water House Coopers in Dubai, UAE in a Senior Executive Position.

(b) 2016-2017 working with a top e-commerce company Flipkart in Bangalore, India as Senior Manager earning more than 25 lakh annually.

(c) 2018-2021 working in London, UK as Associate Director E-commerce, Omnicom Media Group 90-100 Southwark Street, London SE1 0SW. (d) 2021- Current date working in Dubai as Director E-Commerce Strategy, Omnicom Media Group at Omnicom Media Group Building, Dubai Media City, United Arab Emirates-34404.”

It is submitted that the present complaint has been filed by the opposite party no. 2 just in order to harass and falsely implicate the applicants. Learned counsel for the applicants further submitted that the opposite party no. 2 earlier had filed a divorce petition before the Principal Judge, Family Court, Panchkula, Haryana on 11.10.2021 which was dismissed on 22.11.2021 on the ground of territorial jurisdiction. Subsequently the husband/Piyush Kaushal filed a divorce petition under Section 13 of Hindu Marriage Act on 23.11.2021 before the Principal Judge, Family Court, Derabassi, Punjab and in the meantime, the present complaint has been filed at a belated stage on 12.11.2021 for an incident alleged to have taken place in the year 2018-19. It is further submitted that the allegations in the complaint as narrated are general and omnibus. It is submitted that although the family members of the husband are made accused/respondents in it but the version of the complaint does not show that they were

sharing the same house-hold with the complainant and her husband. It is submitted that in the absence of specific and clear allegations against the respondent, the filing of the complaint is clearly an act of malafide which would also lack the necessary pleadings, averments and allegations for the Court concerned to proceed. It is thus submitted that the present petition be allowed and the proceedings of the said case be also quashed.

22. Learned counsel for the opposite party no. 2 and learned counsel for the State opposed the prayers for quashing and submitted the applicants are named in the complaint and there are allegations against them. The present petitions be thus dismissed.

23. After having heard learned counsels for the parties and perusing the records, it is evident that the dispute in the present matter has arisen after Piyush Kaushal entered into a matrimonial relationship with Paru. The relationship became sour and as such an F.I.R. was lodged initially on 26.7.2019 under Sections 498A, 377, 406, 506 I.P.C. and ¾ D.P. Act against 05 accused persons. The investigation in the matter concluded and out of 05 named accused persons in the F.I.R. implication of two accused persons namely Smt. Pooja Batla and Rajat Batla was found to be false and they were not charge sheeted and further the allegations with regard to Section 377 I.P.C. against the accused/Piyush Kaushal was also found to be false and thus he was exonerated for the same. Charge sheet was then submitted against three accused persons namely Piyush Kaushal (husband), Smt. Usha (mother-in-law) and Surendra Kumar (father-in-law), under Sections 498A, 406,

506 I.P.C. and $\frac{3}{4}$ D.P. Act. The court concerned vide its order dated 19.12.2019 took cognizance upon the same and summoned the accused persons therein.

24. Aspects with regard to summoning order is being taken up first. Perusal of the order dated 19.12.2019 taking cognizance and summoning the accused persons is an order passed on a printed proforma which has blanks in it which were filled with ink. There is no reason assigned in the said order by the court concerned which would justify passing the order summoning the accused persons. The summoning order is a totally non-speaking order. The Apex Court in the cases of **M/S. Pepsi Foods Ltd. & Anr vs. Special Judicial Magistrate & Ors : (1998) 5 SCC 749**, **Sunil Bharti Mittal vs. C.B.I. : (2015) 4 SCC 609**, **Mehmood Ul Rehman vs. Khazir Mohammad Tunda and others : (2015) 12 SCC 420**, **Krishna Lal Chawla and others vs. State of U.P. and another : (2015) 12 SCC 420**, **Inox Air Products Limited Now Known As Inox Air Products Private Limited vs. The State of Andhra Pradesh: 2025 SCC OnLine SC 209**, **Lalankumar Singh and Others vs. State of Maharashtra: (2022) SCC OnLine SC 1383**, **Sachin Garg Vs. State of U.P. and Another : 2024 SCC OnLine SC 82** and **JM Laboratories and Others vs. State of Andhra Pradesh and Another : 2025 SCC OnLine SC 208** has held that an order summoning has to be speaking order and reasons have to be assigned by the court concerned for summoning an accused since the same is having serious consequences. Reference herein is made to paragraph nos. 33 to 40 of the judgement of the Apex Court in the case of **INOX AIR (Supra)**. The same reads as under:-

“33. It could be seen from the aforesaid order that except recording the

submissions of the complainant, no reasons are recorded for issuing the process against the accused persons.

34. In this respect, it will be relevant to refer to the following observations of this Court in the case of Pepsi Foods Ltd. (supra):

“28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

35. This Court has clearly held that summoning of an accused in a criminal case is a serious matter. It has been held that the order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. This Court held that the Magistrate is required to examine the nature of allegations made in the complaint and the evidence, both oral and documentary in support thereof and as to

whether that would be sufficient for proceeding against the accused. It has been held that the Magistrate is not a silent spectator at the time of recording of preliminary evidence before summoning the accused.

36. The said law would be consistently following by this Court in a catena of judgments including in the cases of *Sunil Bharti Mittal v. Central Bureau of Investigation*, *Mehmood Ul Rehman v. Khazir Mohammad Tunda and Others* and *Krishna Lal Chawla and Others v. State of Uttar Pradesh and Another*.

37. Recently, a Bench of this Court to which one of us (Gavai, J.) was a Member, in the case of *Lalankumar Singh (supra)*, has observed thus:

“38. The order of issuance of process is not an empty formality. The Magistrate is required to apply his mind as to whether sufficient ground for proceeding exists in the case or not. The formation of such an opinion is required to be stated in the order itself. The order is liable to be set aside if no reasons are given therein while coming to the conclusion that there is a prima facie case against the accused. No doubt, that the order need not contain detailed reasons. A reference in this respect could be made to the judgment of this Court in the case of *Sunil Bharti Mittal v. Central Bureau of Investigation*, which reads thus:

“51. On the other hand, Section 204 of the Code deals with the issue of process, if in the opinion of the Magistrate taking cognizance of an offence, there is sufficient ground for proceeding. This section relates to commencement of a criminal proceeding. If the Magistrate taking cognizance of a case (it may be the Magistrate receiving the complaint or to whom it has been transferred under Section 192), upon a consideration of the materials

before him (i.e. the complaint, examination of the complainant and his witnesses, if present, or report of inquiry, if any), thinks that there is a prima facie case for proceeding in respect of an offence, he shall issue process against the accused.

52. A wide discretion has been given as to grant or refusal of process and it must be judicially exercised. A person ought not to be dragged into court merely because a complaint has been filed. If a prima facie case has been made out, the Magistrate ought to issue process and it cannot be refused merely because he thinks that it is unlikely to result in a conviction.”

25. Further in the case of **JM Laboratories (Supra)** it has been held by the Apex Court as under:

“8. In the judgment and order of even date in criminal appeal arising out of SLP (Crl.) No. 2345 of 2024 titled “*INOX Air Products Limited Now Known as INOX Air Products Private Limited v. The State of Andhra Pradesh*”, we have observed thus:

“33. It could be seen from the aforesaid order that except recording the submissions of the complainant, no reasons are recorded for issuing the process against the accused persons.

34. In this respect, it will be relevant to refer to the following observations of this Court in the case of *Pepsi Foods Ltd. v. Special Judicial Magistrate* (1998) 5 SCC 749 (supra):

“28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused

must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is *prima facie* committed by all or any of the accused.”

35. This Court has clearly held that summoning of an accused in a criminal case is a serious matter. It has been held that the order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. This Court held that the Magistrate is required to examine the nature of allegations made in the complaint and the evidence, both oral and documentary in support thereof and as to whether that would be sufficient for proceeding against the accused. It has been held that the Magistrate is not a silent spectator at the time of recording of preliminary evidence before summoning the accused.

36. The said law would be consistently following by this Court in a catena of judgments including in the cases of *Sunil Bharti Mittal v. Central Bureau of Investigation* (2015) 4 SCC 609, *Mehmood Ul Rehman v. Khazir Mohammad Tunda* (2015) 12 SCC 420 and *Krishna Lal Chawla v. State of Uttar Pradesh* (2021) 5 SCC 435.

37. Recently, a Bench of this Court to which one of us (Gavai, J.) was a Member, in the case of *Lalankumar Singh v. State of Maharashtra* 2022 SCC OnLine SC 1383 (supra), has observed thus:

“38. The order of issuance of process is not an empty formality. The Magistrate is required to apply his mind as to whether sufficient ground for proceeding exists in the case or not. The formation of such an opinion is required to be stated in the order itself. The order is liable to be set aside if no reasons are given therein while coming to the conclusion that there is a *prima facie* case against the accused. No doubt, that the order need not contain detailed reasons. A reference in this respect could be made to the judgment of this Court in the case of *Sunil Bharti Mittal v. Central Bureau of Investigation*⁹, which reads thus:

“51. On the other hand, Section 204 of the Code deals with the issue of process, if in the opinion of the Magistrate taking cognizance of an offence, there is sufficient ground for proceeding. This section relates to commencement of a criminal proceeding. If the Magistrate taking cognizance of a case (it may be the Magistrate receiving the complaint or to whom it has been transferred under Section 192), upon a consideration of the materials before him (i.e. the complaint, examination of the complainant and his witnesses, if present, or report of inquiry, if any), thinks that there is a *prima facie* case for proceeding in respect of an offence, he shall issue process against the accused.

52. A wide discretion has been given as to grant or refusal of process and it must be judicially exercised. A person ought not to be dragged into court merely because a complaint has been filed. If a *prima facie* case has been made out, the

Magistrate ought to issue process and it cannot be refused merely because he thinks that it is unlikely to result in a conviction.

53. However, the words “sufficient ground for proceeding” appearing in Section 204 are of immense importance. It is these words which amply suggest that an opinion is to be formed only after due application of mind that there is sufficient basis for proceeding against the said accused and formation of such an opinion is to be stated in the order itself. The order is liable to be set aside if no reason is given therein while coming to the conclusion that there is prima facie case against the accused, though the order need not contain detailed reasons. A fortiori, the order would be bad in law if the reason given turns out to be ex facie incorrect.”

39. A similar view has been taken by this Court in the case of *Ashoke Mal Bafna* (supra).

40. In the present case, leaving aside there being no reasons in support of the order of the issuance of process, as a matter of fact, it is clear from the order of the learned Single Judge of the High Court, that there was no such order passed at all. The learned Single Judge of the High Court, based on the record, has presumed that there was an order of issuance of process. We find that such an approach is unsustainable in law. The appeal therefore deserves to be allowed.”

9. In the present case also, no reasons even for the namesake have been assigned by the learned Magistrate. The summoning order is totally a non-speaking one. We therefore find that in light of the view taken by us in criminal appeal arising out of SLP (Crl.) No. 2345 of 2024 titled “*INOX Air Products Limited Now Known as INOX Air Products Private Limited v. The State of Andhra Pradesh*”, and the legal position as has been laid

down by this Court in a catena of judgments including in the cases of *Pepsi Foods Ltd. v. Special Judicial Magistrate*, (1998) 5 SCC 749, *Sunil Bharti Mittal v. Central Bureau of Investigation* (2015) 4 SCC 609, *Mehmood Ul Rehman v. Khazir Mohammad Tunda* (2015) 12 SCC 420 and *Krishna Lal Chawla v. State of Uttar Pradesh* (2021) 5 SCC 435, the present appeal deserves to be allowed.”

26. Further the other limb of the matter is with regards to the allegation against the accused person named in the F.I.R. Piyush Kaushal. Although he is the husband of the daughter of the first informant/opposite party no. 2 against whom there were specific allegation with regard to having unnatural sex with the victim but after investigation the said allegation was found to be false and as such he was exonerated for offence under Section 377 I.P.C.

27. The other allegations in the matter for all the accused persons including the husband are general and omnibus. In so far as 02 of the named accused in the F.I.R. namely Smt. Pooja Batla (nand) and Rajat Batla (nandoi) are concerned, their implication was found to be false in the matter and thus they were not charge sheeted by the Investigating Agency. The allegation thus for them was found to be false. The allegation against the remaining 03 accused persons the same as that of the other two not-charge sheeted accused and are general and omnibus. The 02 accused named in the F.I.R. and the charge sheeted apart from the husband are Surendra Kumar the father-in-law and Smt. Usha the mother-in-law of Paru. Even with regards to them the allegations are general and omnibus.

28. Time and again, the Apex Court has considered and held that there is exaggeration of versions in matrimonial disputes and family members of the husband are involved and made accused in matters and are assigned general and omnibus allegations. For reference, the view as taken in different cases by the Apex Court are as under:-

A. - Kahkashan Kausar v. State of Bihar : (2022) 6 SCC 599

“Issue involved

10. Having perused the relevant facts and contentions made by the appellants and respondents, in our considered opinion, the foremost issue which requires determination in the instant case is whether allegations made against the appellant in-laws are in the nature of general omnibus allegations and therefore liable to be quashed?

11. Before we delve into greater detail on the nature and content of allegations made, it becomes pertinent to mention that incorporation of Section 498-AIPC was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid State intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a 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-AIPC as instruments to settle personal scores against the husband and his relatives.

12. This Court in its judgment in ***Rajesh Sharma v. State of U.P. [Rajesh Sharma v. State of U.P., (2018) 10 SCC 472 : (2019) 1 SCC (Cri) 301]***, has observed : ***(SCC pp. 478-79, para 14)***

“14. Section 498-A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the Statement of Objects and Reasons of Act 46 of 1983. The expression “cruelty” in Section 498-A covers conduct which may drive the woman to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand. [Explanation to Section 498-A.] It is a matter of serious concern that large number of cases continue to be filed under Section 498-A alleging harassment of married women. We have already referred to some of the statistics from the Crime Records Bureau. This Court had earlier noticed the fact that most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualised. At times such complaints lead to uncalled for harassment not only to the accused but also to the complainant. Uncalled for arrest may ruin the chances of settlement.”

13. Previously, in the landmark judgment of this Court in ***Arnesh Kumar v. State of Bihar [Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449]***, it was also observed : ***(SCC p. 276, para 4)***

“4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-AIPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-AIPC is a cognizable and non-bailable offence has

lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In quite a number of cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested.”

14. Further in *Preeti Gupta v. State of Jharkhand* [*Preeti Gupta v. State of Jharkhand*, (2010) 7 SCC 667 : (2010) 3 SCC (Cri) 473], it has also been observed : (SCC pp. 676-77, paras 32-36)

“32. It is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar

should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences

are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. 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. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinised with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of an amicable settlement altogether. The process of suffering is extremely long and painful.”

15. In *Geeta Mehrotra v. State of U.P.* [*Geeta Mehrotra v. State of U.P.*,

(2012) 10 SCC 741 : (2013) 1 SCC (Civ) 212 : (2013) 1 SCC (Cri) 120] it was observed : (SCC p. 749, para 21)

“21. It would be relevant at this stage to take note of an apt observation of this Court recorded in *G.V. Rao v. L.H.V. Prasad* [*G.V. Rao v. L.H.V. Prasad*, (2000) 3 SCC 693 : 2000 SCC (Cri) 733] wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that : (SCC p. 698, para 12)

“12. ... There has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their cases in different courts.’

The view taken by the Judges in this matter was that the courts would not encourage such disputes.”

16. Recently, in *K. Subba Rao v. State of Telangana* [*K. Subba Rao v. State of Telangana*, (2018) 14 SCC 452 : (2019) 1 SCC (Cri) 605], it was also observed that : (SCC p. 454, para 6)

“6. ... The courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out.”

17. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.”

B. - Payal Sharma v. State of Punjab and another : 2024 SCC OnLine SC 3473

“9. In the decision in *Preeti Gupta v. State of Jharkhand*: (2010) 7 SCC 667, this Court observed that it is a matter of common knowledge that in matrimonial disputes exaggerated versions of the incident are reflected in a large number of complaints and the tendency of over implication is also reflected in a large number of cases. The criminal trials lead to immense sufferings for all concerned. Even

ultimate acquittal in the trial may also not be able to wipe out the deep scars of sufferings of ignominy, it was further held therein. We have no hesitation to hold that the said observation of this Court is in fact, sounding of a caution, against non-discharge of the duty to see whether implication of a person who is not a close relative of the family of the husband is over implication or whether allegation against any such person is an exaggerated version, in matrimonial disputes of this nature. In this context, it is to be noted that the term 'relative' has not been defined in the statute and, therefore, it must be assigned a meaning as is commonly understood. Hence, normally, it can be taken to include, father, mother, husband or wife, son, daughter, brother, sister, nephew, niece, grandson or granddaughter of any individual or the spouse of any person. To put it shortly, it includes a person related by blood, marriage or adoption. In paragraph 35 of *Preeti Gupta's case* (supra) it was furthermore held thus:—

"...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. The allegations of harassment by husband's close relatives who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinized with great care and circumspection."

10. In such circumstances, normally against a person who is not falling under any of the aforesaid categories when allegations are raised, in the light of the observations made in *Preeti Gupta's case* (supra), the Court concerned owes an irrecusable duty to see whether such

implication is over implication and/or whether the allegations against such a person is an exaggerated version. We have already taken note of the fact that except the observation made in paragraph 7 there is no consideration at all of the contentions of accused No. 5 in the impugned order.

11. In the decision in ***Geeta Mehrotra v. State of U.P. : (2012) 10 SCC 741***, this Court held that mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the tendency of over implication viz., to draw the entire members of the household in the domestic quarrel resulting in matrimonial dispute, especially when it happens soon after the wedding. In the decision in ***Kahkashan Kausar @ Sonam v. State of Bihar : (2022) 6 SCC 599***, this Court quashed proceedings in so far as family members of the husband on the ground that the allegations against them are general and ominous in nature. In matters like the one at hand when relatives not residing in the same house where the alleged victim resides, the courts shall not stop consideration by merely looking into the question where the accused is a person falling within the ambit of the expression 'relative' for the purpose of Section 498-A, IPC, but should also consider whether it is a case of over implication or exaggerated version solely to implicate such person(s) to pressurise the main accused. It is also relevant to refer to the decision of this Court in ***State of Haryana v. Bhajan Lal: 1992 Supp (1) SCC 335***, wherein after considering the statutory provisions and the earlier decisions, this Court referred to various categories of cases where the inherent powers under Section 482, Cr. P.C. could be exercised by High Court to

prevent abuse of process of Court or otherwise to secure ends of justice. One among such categories is where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent man could ever reach a just conclusion that there is sufficient ground for proceeding against an accused.”

C. - Dara Lakshmi Narayana and others v. State of Telangana and another : 2024 SCC OnLine SC 3682

“11. In *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 (“*Bhajan Lal*”), this Court formulated the parameters under which the powers under Section 482 of the CrPC could be exercised. While it is not necessary to revisit all the parameters, a few that are relevant to the present case may be set out as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do

not prima facie constitute any offence or make out a case against the accused.

x x x

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

12. In the instant case, the allegations in the FIR are under Section 498A of the IPC and Sections 3 and 4 of the Dowry Act.

13. Section 498A of the IPC deals with offences committed by the husband or relatives of the husband subjecting cruelty towards the wife. The said provision 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 purpose 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.”

14. Further, Sections 3 and 4 of the Dowry Act talk about the penalty for giving or taking or demanding a dowry.

“3. Penalty for giving or taking dowry.—

(1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more.

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years.

(2) Nothing in sub-section (1) shall apply to, or in relation to,—

(a) presents which are given at the time of a marriage to the bride without any demand having been made in that behalf:

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act;

(b) presents which are given at the time of a marriage to the bridegroom without any demand having been made in that behalf:

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act:

Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.

4. Penalty for demanding dowry.— If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any

dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.”

15. An offence is punishable under Section 498A of the IPC when a husband or his relative subjects a woman to cruelty, which may result in imprisonment for a term extending up to three years and a fine. The Explanation under Section 498A of the IPC defines “cruelty” for the purpose of Section 498A of the IPC to mean any of the acts mentioned in clauses (a) or (b). The first limb of clause (a) of the Explanation of Section 498A of the IPC, states that “cruelty” means any wilful conduct that is of such a nature as is likely to drive the woman to commit suicide. The second limb of clause (a) of the Explanation of Section 498A of the IPC, states that cruelty means any wilful conduct that is of such a nature as to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman. Further, clause (b) of the Explanation of Section 498A of the IPC states that cruelty would also include harassment of the woman where such harassment is to coerce 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.

16. Further, Section 3 of the Dowry Act deals with penalty for giving or taking dowry. It states that any person who engages in giving, taking, or abetting the exchange of dowry, shall face a punishment of imprisonment for a minimum of five years and a fine of not less than fifteen

thousand rupees or the value of the dowry, whichever is greater. Section 4 of the Dowry Act talks of penalty for demanding dowry. It states that any person demanding dowry directly or indirectly, from the parents or other relatives or guardians of a bride or bridegroom shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees.

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25. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. In the present case, appellant Nos. 2 to 6, who are the members of the family of appellant No. 1 have been living in different cities and have not resided in the matrimonial house of appellant No. 1 and respondent No. 2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.

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28. The inclusion of Section 498A of the IPC by way of an amendment was intended to curb cruelty inflicted on a

woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498A of the IPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498A of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.

29. We are not, for a moment, stating that any woman who has suffered cruelty in terms of what has been contemplated under Section 498A of the IPC should remain silent and forbear herself from making a complaint or initiating any criminal proceeding. That is not the intention of our aforesaid observations but we should not encourage a case like as in the present one, where as a counterblast to the petition for dissolution of marriage sought by the first appellant-husband of the second respondent herein, a complaint under Section 498A of the IPC is lodged by the latter. In fact, the insertion of the said provision is meant mainly for the protection of a woman who is subjected to cruelty in the matrimonial home primarily due to an unlawful demand for any property or valuable security in the form of

dowry. However, sometimes it is misused as in the present case.

30. In the above context, this Court in ***G.V. Rao v. L.H.V. Prasad, (2000) 3 SCC 693*** observed as follows:

“12. There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their “cases” in different courts.”

31. Further, this Court in ***Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667*** held 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. The allegations of harassment by the husband's close relatives who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different

complexion. The allegations of the complainant are required to be scrutinized with great care and circumspection.”

29. The Apex Court in the case of ***Geddam Jhansi vs. The State of Telangana : Special Leave Petition (Criminal) No. 428 of 2024 decided on 07.02.2025 : 2025 INSC 160*** has held that criminal charges of cruelty, dowry demand and domestic violence without specific allegations and credible materials may have disastrous consequences for families. It was further held that when family relationships are sought to be brought within the ambit of criminal proceedings rupturing the family bond, courts should be circumspect and judicious and should allow invocation of criminal process only when there are specific allegations with supporting materials which clearly constitute criminal offences. It has been held as under:

“31. Invoking criminal process is a serious matter with penal consequences involving coercive measures, which can be permitted only when specific act(s) which constitute offences punishable under the penal code or any other penal statute are alleged or attributed to the accused and a prima facie case is made out. It applies with equal force when criminal laws are invoked in domestic disputes. Criminalising domestic disputes without specific allegations and credible materials to support the same may have disastrous consequences for the institution of family, which is built on the premise of love, affection, cordiality and mutual trust. Institution of family constitutes the core of human society. Domestic relationships, such as those between family members, are guided by deeply ingrained social values and cultural expectations. These relationships are often viewed as sacred,

demanding a higher level of respect, commitment, and emotional investment compared to other social or professional associations. For the aforesaid reason, preservation of family relationship has always been emphasised upon. Thus, when family relationships are sought to be brought within the ambit of criminal proceedings rupturing the family bond, courts should be circumspect and judicious, and should allow invocation of criminal process only when there are specific allegations with supporting materials which clearly constitute criminal offences.

32. We have to keep in mind that in the context of matrimonial disputes, emotions run high, and as such in the complaints filed alleging harassment or domestic violence, there may be a tendency to implicate other members of the family who do not come to the rescue of the complainant or remain mute spectators to any alleged incident of harassment, which in our view cannot by itself constitute a criminal act without there being specific acts attributed to them. Further, when tempers run high and relationships turn bitter, there is also a propensity to exaggerate the allegations, which does not necessarily mean that such domestic disputes should be given the colour of criminality.

33. It goes without saying that genuine cases of cruelty and violence in domestic sphere, which do happen, ought to be handled with utmost sensitivity. Domestic violence typically happens within the four walls of the house and not in the public gaze. Therefore, such violence is not noticed by public at large, except perhaps by the immediate neighbours. Thus, providing visible evidence by the victim of domestic violence may not be easily forthcoming and producing direct evidence may be hard and arduous, which does not

necessarily mean that domestic violence does not occur. In fact, to deal with this pernicious phenomenon, stringent statutes like Protection from Domestic Violence Act, 2005, have been enacted with very expansive meaning and scope of what amounts to domestic violence. Since, violence perpetrated within the domestic sphere by close relatives is now criminalised entailing serious consequences on the perpetrators, the courts have to be careful while dealing with such cases by examining whether there are specific allegations with instances against the perpetrators and not generalised allegations. The purpose and mandate of the law to protect the victims of domestic violence is of paramount importance, and as such, a balance has to be struck by ensuring that while perpetrators are brought to book, all the family members or relatives are not indiscriminately brought within the criminal net in a sweeping manner.

34. For a matrimonial relationship which is founded on the basis of cordiality and trust to turn sour to an extent to make a partner to hurl allegations of domestic violence and harassment against the other partner, would normally not happen at the spur of the moment and such acrimonious relationship would develop only in course of time. Accordingly, such a situation would be the culmination of a series of acts which turns, otherwise an amicable relationship, into a fractured one. Thus, in such cases involving allegations of domestic violence or harassment, there would normally be a series of offending acts, which would be required to be spelt out by the complainant against the perpetrators in specific terms to rope such perpetrators in the criminal proceedings sought to be initiated against them. Thus, mere general allegation of harassment without pointing out the

specifics against such perpetrators would not suffice, as is the case in respect of the present appellants.

35. We are, thus, of the view that in criminal cases relating to domestic violence, the complaints and charges should be specific, as far as possible, as against each and every member of the family who are accused of such offences and sought to be prosecuted, as otherwise, it may amount to misuse of the stringent criminal process by indiscriminately dragging all the members of the family. There may be situations where some of the family members or relatives may turn a blind eye to the violence or harassment perpetrated to the victim, and may not extend any helping hand to the victim, which does not necessarily mean that they are also perpetrators of domestic violence, unless the circumstances clearly indicate their involvement and instigation. Hence, implicating all such relatives without making specific allegations and attributing offending acts to them and proceeding against them without prima facie evidence that they were complicit and had actively collaborated with the perpetrators of domestic violence, would amount to abuse of the process of law.

36. Our observations, however, should not be generalised to mean that relatives cannot be brought under the purview of the aforesaid penal provisions when they have actively participated in inflicting cruelty on the daughter-in-law/victim. What needs to be assessed is whether such allegations are genuine with specific criminal role assigned to such members of the family or whether it is merely a spill over and side-effect of a matrimonial discord and allegations made by an emotionally disturbed person. Each and every case of domestic violence will

thus depend on the peculiar facts obtaining in each case.”

30. In view of the discussions as above, this Court comes to the conclusion that summoning order, at the first instance, is a non-speaking order which is on a typed proforma, in which gaps have been filled with pen. The court concerned has not given any reason for reaching to a conclusion that the accused persons need to be summoned. The allegations against the accused Piyush Kaushal for the offence under Section 377 I.P.C. has been found to be false and he has been exonerated for the said offence. Two co-accused namely Smt. Pooja Batla and Rajat Batla named in the F.I.R. and assigned common and general role as that of the other co-accused persons, have been exonerated of the charges levelled against them. The allegations in the matter are general and omnibus. The husband, his parents and sister and her husband were made as accused in the F.I.R. The F.I.R. has been lodged with an inordinate delay of about 05 months.

31. Even an important aspect which emerges out from the records is that the husband (an accused) and wife (victim) are well educated and well placed persons. The dispute between them is purely matrimonial in nature. The victim does not state of any bodily injuries to her and neither is there any document to show any bodily injury. She has travelled various times to foreign country. Even the couple have together travelled to various foreign places. The facts thus appear to be a clash of ego between them which could not subside but carried on for a long time which then resulted in lodging of F.I.R. and even a complaint under the Domestic Violence Act.

32. Looking to the facts of the case, law on the dispute, nature of allegations and the relationship of the accused persons as per the F.I.R., the present cases are fit cases which deserve to be quashed. Hence, Criminal Misc. Application U/S 482 No. 4446 of 2020 and Criminal Misc. Application U/S 482 No. 2818 of 2020 are **allowed** and the proceeding against the applicants/accused therein are **quashed**.

33. In so far as the proceedings under the Protection of Women from Domestic Violence Act are concerned, the allegations in the matter are for violence alleged to have taken place in the years 2018-2019 which is after a period of about more than 02 years. The complainant carries multiple prayers which even prays for return of "Streedhan". The reading of the complaint goes to show that although the complainant was alleged to have been assaulted and beaten by her husband, but there is no supporting documents to show any kind of injury received by her. The allegations in the complaint are general and omnibus. The husband, father-in-law, mother-in-law, nand and nandoi are respondents therein. A perusal of the allegations go to show that there has been matrimonial dispute. The fact that marriage was a love marriage is not disputed. The fact that the complainant is a well-educated and qualified person having worked in various companies of international fame is also not under dispute. The allegations being general and omnibus in nature go to show that the complaint has been filed only with an intention to implicate the maximum number of family members for obvious reasons. Thus Criminal Misc. Application U/S 482 No. 18261 of 2022 and Criminal Misc. Application U/S 482 No. 36143 of 2022 also deserve to be allowed and the proceedings therein against the applicants

as prayed for deserve to be quashed. As such, the said two petitions are also allowed and the proceedings against the applicants therein are also quashed.

(2025) 2 ILRA 131

**ORIGINAL JURISDICTION
CRIMINAL SIDE**

DATED: LUCKNOW 21.02.2025

BEFORE

**THE HON'BLE SUBHASH CHANDRA
SHARMA, J.**

Application U/S 482 No. 2882 of 2016

Pradeep Kumar Maurya & Ors.

...Applicants

Versus

State of U.P. & Anr. ...Opposite Parties

Counsel for the Applicants:

Vinod Kumar Shahi, Abhishek Srivastava,
Bal Keshwar Srivastava, Sanjeev Kumar
Mishra

Counsel for the Opposite Parties:

G.A., Osama Aziz (In Person)

Criminal Law - Constitution of India, 1950 - Articles 12, 14, 21 & 39-A - Fair Investigation - Code of Criminal Procedure, 1973 - Sections 169, 170 & 173(2) - Issue: Can a superior officer of police issue directions for filing of a charge sheet or final report? - Section 36 Cr.P.C. - Powers of Superior Officers of Police: It is permissible for any superior officer of police to take over the investigation from the officer in charge of the police station, either suo motu or on the direction of a superior officer, including that of the Government. If a superior officer of police investigates the matter himself, he may form the final opinion for filing a charge sheet or final report. However, while exercising powers as a supervisory authority, he cannot form