

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

Case No. CrLM No. 150/2024
CRM(M) No. 162/2023

Reserved on: - 12.12.2025
Pronounced on: - 26.12.2025
Uploaded on: - 26.12.2025
Whether the operative part or full
judgment is pronounced: - Full.

Shakeel-ul-Rehman and Anr.

.... Appellant(s)

Through: - Mr. Sheikh Younis, Advocate

V/s

Station House Officer Women Police Station Anantnag & Anr.

Through: - Mr. Ilyas Nazir Laway, GA

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

JUDGMENT

01. The petitioners have invoked the inherent jurisdiction of this Court to challenge FIR No. 06/2023 registered under Sections 498-A IPC and Section 4 of the Dowry Prohibition Act, 1961, at Police Station Women, Anantnag, at the instance of respondent No. 2. The principal ground urged is that the impugned FIR is a clear abuse of the process of law, having been lodged with mala fide intent after respondent No. 2 had already resorted to multiple civil and quasi-criminal proceedings against petitioner No. 1.

02. It is contended that respondent No. 2 had earlier filed a petition under Section 125 Cr. PC seeking maintenance for herself and the minor child, and

had also initiated proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005. Both these proceedings were instituted on 24.08.2022, after respondent No. 2 had been divorced by petitioner No. 1. According to the petitioners, the divorce was necessitated by the conduct of respondent No. 2, who was married in the year 2016 and had a child out of the wedlock. It is alleged that after some years of marriage, respondent No. 2 was unwilling to discharge her marital obligations and intended to ruin the matrimonial life of petitioner No. 1. Despite repeated attempts at reconciliation, the matrimonial discord could not be resolved, compelling petitioner No. 1 to pronounce divorce on three occasions, i.e., on 02.08.2022, 06.09.2022, and finally on 06.10.2022.

03. It is further alleged that while the aforesaid proceedings under Section 125 Cr. PC and the Domestic Violence Act were pending, and while respondent No. 2 was residing separately, she, with a view to harass and falsely implicate petitioner No. 1 and his mother, concocted the present FIR. According to the petitioners, this is evident from the fact that the allegations contained in the FIR are inconsistent with the pleadings taken by respondent No. 2 in the earlier proceedings. It is asserted that the allegation of demand of dowry, now raised in the FIR, is wholly false, imaginary, and motivated, and is a result of personal vendetta arising out of the second marriage of petitioner No. 1. It is alleged that the FIR has been lodged only to subject the petitioners to police harassment and to coerce them into an unwarranted settlement. It is thus pleaded that the essential ingredients of the offences alleged are not made out and that even the investigation conducted by respondent No. 1 has not been fair.

04. Upon notice, the respondents filed a status report stating that on 28.03.2023 respondent No. 2 approached the Women's Police Station, Anantnag, with a written complaint duly endorsed by the Senior Superintendent of Police, Anantnag. In her complaint, respondent No. 2 alleged that her marriage with petitioner No. 1 had been solemnized and that after one year of marriage she was subjected to mental and physical cruelty and was harassed on account of dowry demands. It was further alleged that her father had availed a loan of ₹16.00 lakhs from J&K Bank, out of which part of the amount was paid to petitioner No. 1 as dowry. She further alleged that in the year 2022 she was thrown out of the matrimonial home by petitioner No. 1 and his mother, and that petitioner No. 1 had contracted a second marriage, thereby rendering her life miserable.

05. On receipt of the complaint, FIR No. 06/2023 under Sections 498-A IPC and 4 of the Dowry Prohibition Act was registered. During the investigation, respondent No. 2 was examined under Sections 161 and 164 Cr.PC. The statement of her father was also recorded. The investigation further revealed that respondent No. 2 had transferred an amount of ₹7,95,150/- to the account of petitioner No. 1 on different occasions, and confirmation of these transactions was obtained from J&K Bank, Branch Qazigund. The father of respondent No. 2 stated that petitioner No. 1 used to physically and mentally abuse the complainant. It was also found that petitioner No. 1 had contracted a second marriage with one Sumaira Jan. On the basis of the material collected during investigation, offences under Sections 498-A and 506 IPC and Sections 3/4 of the Dowry Prohibition Act were found established against both the petitioners.

06. At the time of admission of the present petition, this Court directed respondent No. 1 to continue with the investigation, but restrained it from presenting the charge-sheet before the competent court without prior permission. During the pendency of the petition, respondent No. 1 filed an application bearing CrLM No. 150/2024 seeking permission to present the charge-sheet. This Court examined the case diaries produced and thereafter returned the same to learned counsel for respondent No. 1.

07. Learned counsel for the petitioners vehemently argued that the FIR is a sheer abuse of the process of law and has been lodged with mala fide intention after petitioner No. 1 contracted a second marriage. It was contended that the complaint itself demonstrates that respondent No. 2 is aggrieved primarily by the second marriage of petitioner No. 1, which is claimed to have been lawfully solemnized in accordance with the personal law applicable to the parties. It was argued that respondent No. 2 had been living separately since the year 2022 and that in the earlier proceedings under Section 125 Cr. PC and the Domestic Violence Act, there was no allegation whatsoever regarding physical violence or dowry demand. According to the petitioners, these allegations have been introduced for the first time only after the second marriage of petitioner No. 1.

08. It was further argued that the proceedings under Section 125 Cr. PC and Section 12 of the Domestic Violence Act were initiated only after petitioner No. 1 had pronounced divorce, and that the present FIR is nothing but a counterblast to the said divorce. It was submitted that the allegations in the FIR are vague, mechanically drafted, and have been materially improved during the course of investigation by respondent No. 2 and her father. The delay in lodging

the FIR, coupled with the absence of specific instances of harassment or dowry demand, according to the petitioners, clearly establishes that respondent No. 2 has abused the criminal justice process to falsely implicate the petitioners. It was, therefore, contended that the FIR cannot be sustained in law.

09. Learned counsel for the petitioners has placed reliance upon the judgment rendered by a Coordinate Bench of this Court in *Usha Kiran and another v. Union Territory of J&K and others*, CRM(M) No. 912/2024. Heavy reliance has also been placed on the recent judgment of the Hon'ble Supreme Court in *Rajesh Chaddha v. State of Uttar Pradesh*, reported as 2025 SCC Online SC 1094, as well as *Preeti Gupta v. State of Jharkhand*, reported in 2010 Legal Eagle (SC) 592.

10. Per contra, learned counsel appearing for the respondents has contended that the petition is false, frivolous, and devoid of merit. It is argued that the FIR in question has culminated in a full-fledged investigation and a charge-sheet, which is ready to be presented before the competent court, wherein, allegations of physical cruelty and demand of dowry have been substantiated. It is submitted that once the investigation is complete and material has been collected supporting the allegations, the inherent jurisdiction of this Court under Section 482 Cr. PC ought not to be exercised. Emphasizing the discretionary nature of the power under said provision, it is argued that this is not a case where the allegations, on the face of it, can be said to be false or concocted, nor can it be said that the allegations raised in the FIR were never part of earlier proceedings. It is further contended that the pendency of proceedings under the Domestic Violence Act or under Section 125 Cr. PC

does not bar the respondent-wife from initiating criminal proceedings for acts of cruelty or dowry demand committed while she was residing in the matrimonial home. It is urged that there is no period of limitation prescribed for lodging such a complaint and that, in any case, the petitioners have the liberty to raise all their defences before the trial court. On these grounds, dismissal of the petition has been sought.

11. The Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335, has laid down illustrative categories where the inherent powers under Section 482 Cr. PC can be exercised to prevent abuse of the process of law or to secure the ends of justice. Though it is not necessary to reiterate all the categories, the relevant ones for the present case are reproduced hereinbelow:

“(1) Where the allegations made in the FIR or the complaint, even if 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;

...

(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. I have heard the parties and gone through record as well as the case diaries. The Hon'ble Supreme Court in *Dara Lakshmi Narayana & Others Versus State of Telangana & Another* AIR 2025 SC 173, has observed as under:

“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 vs. 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 vs. 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.”

13. The Hon'ble Supreme Court, in recent decisions including *Dara Lakshmi Narayana* (2024 Legal Eagle (SC) 1054 and *Rajesh Chaddha*, [SLP (Crl) No. 2353-2354 dated 13.05.2025] has once again taken judicial notice of the misuse of Section 498-A IPC in matrimonial disputes. While recognizing

the importance of the provision in protecting genuine victims of cruelty, the Apex Court has cautioned that vague, omnibus, generalized, and sweeping allegations against the husband and his relatives, without specifying their active role or involvement, particularly when arising out of matrimonial discord, should be curbed at the threshold. The Court has emphasized the need to strike a balance between safeguarding legitimate grievances and preventing misuse of penal provisions for personal vendetta.

14. Admittedly, prior to the lodging of the impugned FIR, respondent No. 2 had already initiated proceedings under Section 125 Cr. PC seeking maintenance, as well as proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005. In those proceedings, petitioner No. 1 had taken a categorical stand that respondent No. 2 had been divorced by pronouncing talaq on three occasions, i.e., on 02.08.2022, 06.09.2022, and 06.10.2022. A careful reading of the FIR, however, reveals that the primary grievance of respondent No. 2 stems from the second marriage contracted by petitioner No. 1. In paragraph 7 of the complaint, respondent No. 2 specifically alleges that petitioner No. 1 contracted marriage on 16.03.2023 without her consent and without obtaining mandatory permission from the Government, which prompted her to lodge the FIR. Thus, in essence, the criminal proceedings were initiated only after the second marriage of petitioner No. 1.

15. Although the FIR contains allegations that during the subsistence of marriage respondent No. 2 was subjected to cruelty and dowry demand, allegedly met by her father through a bank loan, such accusations were conspicuously absent in the earlier proceedings initiated by her. It is her

admitted case in those proceedings that she was thrown out of the matrimonial home on 25.07.2022. Consequently, on the date of lodging of the FIR, she was admittedly not residing with petitioner No. 1. Notably, while allegations of cruelty and dowry demand have also been levelled against petitioner No. 2, the mother-in-law, there is not even a whisper in the proceedings under the Domestic Violence Act regarding dowry-related harassment attributable to her. The only allegations therein pertain to being beaten, abused, and eventually ousted from the matrimonial home. This material inconsistency in the allegations lends credence to the contention that the FIR is an afterthought and suffers from embellishment.

16. It may be that strict segregation of proceedings under Section 125 Cr. PC, the Domestic Violence Act, and criminal prosecution under Section 498-A IPC is not always necessary, particularly because allegations of domestic violence, dowry demand, mental cruelty, and physical harassment are often interlinked. Any domestic discord or suffering allegedly undergone by respondent No. 2 during her stay with the petitioners would ordinarily surface consistently across such proceedings. However, in the present case, despite respondent No. 2 claiming to have been thrown out of the matrimonial home in the year 2022, she did not initiate any criminal proceedings alleging cruelty or dowry demand at that stage. Instead, she invoked civil and quasi-criminal remedies by filing proceedings under Section 125 Cr. PC and the Domestic Violence Act. It was only after petitioner No. 1 contracted a second marriage that, for the first time, allegations under Section 498-A IPC and the Dowry Prohibition Act were raised.

17. Whether the second marriage of petitioner No. 1 is legally sustainable or not does not fall for consideration before this Court in the present proceedings. Equally, the question whether petitioner No. 1 was required to obtain prior permission from his department before contracting a second marriage is not an issue to be adjudicated herein. What is relevant is that petitioner No. 1 has consistently taken the stand that he had divorced respondent No. 2 in accordance with Muslim personal law after exhausting all efforts at reconciliation. Significantly, in paragraph 7 of the complaint, respondent No. 2 herself states that she is lodging the FIR because petitioner No. 1 contracted a second marriage without her consent and without obtaining permission from the Government. This assertion makes it abundantly clear that the initiation of criminal proceedings was triggered by the second marriage of petitioner No. 1.

18. Although respondent No. 2 alleges in the FIR that dowry was demanded prior to separation and that such demand was met by her father through a bank loan that too in the year 2018, the fact remains that even after remaining separated for more than one year, she did not initiate any criminal action alleging continuing cruelty or dowry harassment. Her stance, therefore, is contradictory and suggests a deliberate attempt to implicate the petitioners in criminal proceedings as a retaliatory measure. The contention of the petitioners that the FIR is a counterblast to the divorce and pending litigation, thus, merits acceptance. The unexplained delay in lodging the FIR casts serious doubt on the veracity of the allegations.

19. There is no dispute with the settled legal proposition that while an FIR is not a substantive piece of evidence, it is nevertheless a vital document. The

insistence on prompt lodging of an FIR is to ensure early reporting of the circumstances surrounding the alleged offence. Delay in lodging the FIR gives rise to the possibility of embellishment, exaggeration, and introduction of a coloured version. From a reading of the FIR itself, it is evident that respondent No. 2 has repeatedly asserted that the FIR was lodged because petitioner No. 1 contracted a second marriage. Even a perusal of the case diaries and statements recorded under Sections 161 and 164 Cr. PC reveals that neither respondent No. 2 nor her father has specified any particular dates or instances when cruelty, harassment, or dowry demand allegedly took place. The statement of respondent No. 2 recorded under Section 164 Cr. PC is a brief, four-line statement devoid of any specific allegations. In latest judgement of apex court reported 2025 Live Law SC 1239, it was held, “the tendency of invoking these sections, without mentioning any specific details weakens the case of prosecution and casts serious aspersions on the viability of complaint. Therefore, this court cannot ignore the missing specifics in an FIR which is premise of invoking criminal machinery of the State.”

20. Similarly, the statement of her father, PW Mohammad Yousuf Deva, indicates that in the year 2018 he allegedly availed a housing loan and paid an amount of ₹6.00 lakhs to the petitioners. If such a demand of dowry had indeed been made in the year 2018, there was no impediment in raising such allegations in the earlier proceedings under Section 125 Cr. PC or the Domestic Violence Act. The omission to do so, coupled with the fact that petitioner No. 1 contracted a second marriage only in the year 2023, strongly suggests that respondent No. 2 was provoked by the said marriage and, in order to teach a

lesson to the petitioners, lodged the impugned FIR by raising exaggerated and imaginary allegations.

21. The argument of the respondents that once the FIR has been investigated and a charge-sheet is ready, the proceedings under Section 482 Cr. PC cannot be entertained, is without merit. In this regard, reference may be made to *Nowshad Ahmad Rather v. State*, (2021) 2 JKJ 133, wherein reliance was placed on the judgment of the Hon'ble Supreme Court in *Indian Oil Corporation v. NEPC India Ltd.*, (2006) 6 SCC 736. The Apex Court has consistently held that criminal proceedings may be quashed where the allegations, even if taken at face value, do not constitute an offence, or where the proceedings are manifestly attended with mala fides and initiated with an ulterior motive for wreaking vengeance. The mere completion of investigation or preparation of a charge-sheet does not curtail the inherent powers of the High Court to prevent abuse of the process of law.

22. This Court is conscious that the power under Section 482 Cr. PC must be exercised sparingly and with caution. However, in the present case, the continuation of criminal proceedings emanating from the impugned FIR would amount to an abuse of the process of law. The FIR, on the face of it, appears to have been lodged as a retaliatory measure after petitioner No. 1 contracted a second marriage. Another significant aspect is that respondent No. 2 did not initially approach the officer-in-charge of the concerned police station but instead directly approached the Senior Superintendent of Police, Anantnag, who thereafter directed registration of the FIR. Such recourse ordinarily arises only when there is reluctance on the part of the police station to register a

complaint. This aspect gains relevance in light of the principles reiterated in *Priyanka Srivastava v. State of U.P* 2015(6) SCC 6 and the safeguards now incorporated under Section 175 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which seek to prevent false and frivolous criminal prosecution.

23. While it is true that every offender must be proceeded against in accordance with law, the criminal process cannot be permitted to be used as a tool for settling personal scores or satisfying individual vendetta. For the aforesaid reasons, this Court is of the considered opinion that continuation of proceedings arising out of FIR No. 06/2023 against the petitioners would amount to abuse of the process of law.

24. Accordingly, the proceedings emanating from the impugned FIR are quashed to prevent further harassment of the petitioners. The case diary produced by the Investigating Officer is returned to I/O.

25. Disposed of in above terms.

(Sanjay Parihar)
Judge

SRINAGAR

26.12.2025

“Mohammad Yasin Dar”

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No