

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 02ND DAY OF JUNE, 2023

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BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPPASANNA

CRIMINAL PETITION No.1511 OF 2023

BETWEEN:

(BY SMT. YASHASWINI S, ADVOCATE)

... PETITIONER

AND:

1 . STATE OF KARNATAKA THROUGH
LAKSHMIPURAM POLICE STATION,
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU - 560 001.

... RESPONDENTS

(BY SRI MAHESH SHETTY., HCGP FOR R-1)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE COMPLAINT AND FIR REGISTERED BY THE RESPONDENT NO.1 POLICE IN CR.NO.61/2022 PENDING ON THE FILE OF THE HONBLE VIII ADDL.CIVIL JUDGE AND J.M.F.C MYSURU FOR THE OFFENCE P/U/S 498A, 307, 506 OF IPC AND SEC.3, 4 OF D.P ACT.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 30.05.2023, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The petitioner is before this Court calling in question registration of a crime in Crime No.61 of 2022 registered for offences punishable under Sections 498A, 307 and 506 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. *Shorn* of unnecessary details, the facts in brief germane are as follows:-

The petitioner is the sole accused and the 2nd respondent is his wife, the complainant. The two get married on 19-04-2021. It is alleged that on certain torture, the 2nd respondent/ complainant leaves the matrimonial house on 14-08-2022. The petitioner then causes a legal notice upon the 2nd respondent seeking amicable

settlement and resolution of the dispute between them for the purpose of dissolution of marriage. The said notice was caused on 13-10-2022. Later, the wife registers a complaint against the petitioner/husband on 1.12.2022 which becomes a crime in Crime No.61 of 2022. It is the registration of crime against the husband is what drives the petitioner to this Court in the subject petition.

3. Heard Smt. S. Yashaswini, learned counsel appearing for the petitioner and Sri Mahesh Shetty, learned High Court Government Pleader appearing for respondent No.1.

4. The learned counsel for the petitioner would contend that the wife has registered the crime as a counterblast to the legal notice that the petitioner sends, seeking amicable settlement for dissolution of marriage. There are no ingredients that would become offences under Section 498A of the IPC. In the light of the husband sending a notice for divorce and the immediate registration of crime thereafter, the crime loses its significance. She would submit that this is the law laid down by a co-ordinate Bench of this Court in Criminal Petition No.201257 of 2019 and

connected case decided on 18-04-2023 and therefore, the FIR should be quashed on the sole ground that the crime is registered after receipt of a notice seeking dissolution of marriage.

5. On the other hand, the learned High Court Government Pleader would submit that investigation has just commenced; there are grave allegations against the petitioner/husband for offences punishable under Section 498A and 307 IPC and, therefore, the proceedings should be permitted to be continued.

6. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

7. The issue now lies in a narrow compass. The petitioner and the 2nd respondent are the husband and wife who got married on 19-04-2021. It is the averment in the petition that on several allegations the wife leaves the matrimonial house on 14-08-2022. The petitioner then on 13-10-2022 causes a legal notice upon the

wife wherein he projects himself to be suffering from mental trauma at the hands of the wife and seeks resolution of matrimonial dispute amicably and dissolution of marriage by mutual consent within 15 days. The narration in the notice is that the wife should desist from filing a false claim and initiating malicious proceedings against the husband or the family members. What is latent becomes patent on a perusal of the notice. The notice dated 13-10-2022, insofar as it is germane, reads as follows:

"Under instructions from our client, Mr.Pramod R.S., S/o Mr.Suresh N., aged about 32 years, Residing at #10, Krishna Raj layout, J.P.Nagar, Bangalore - 560 076, this notice is issued to you in the following terms.

1. *At the outset, it is placed on record that our client has instructed us to issue this Legal Notice with an intention to resolve the differences/dispute between you and our client amicably without precipitating the matter and anticipating amicable resolution of the dispute. Therefore, our client reserves liberty to explain the facts in detailed urge the all grounds in future correspondences or the proceedings if any commenced.*
2. *We are instructed to state that the marriage between you and our client was solemnized on 19th April 2021 in Jain Bhavan, Devan's Raod, Lakshmipuram behind Hardwick High School, at Mysore and there are no children out of the wedlock. Since you have not made any efforts or evince any interest to engage with our client and his family members and started*

quarrelling with our client and his family members, our client and his family members suffered humiliation at your hands. Because of your quarrelsome and aggressive conduct and consistent interference by your parents the relationship between you and our client is deteriorate. You never took any responsibility as a dutiful wife and on the other hand, you indulged in laziness, overspending, doubting about his chastity and quarrelsome behaviour with our client and his family members. You have also threatened our client that our client and his parents will be implicated in false case in case our client does not accedes to your demand of leaving his parents and shift to Mysore.

- 3. The marriage between you and our client is irrevocably broken down because of your adamant and quarrelsome conduct and our client suffered severe mental trauma and agony. You left the matrimonial home in the month of August 2022 and you are living with your parents at your parents' home from August 2022.*
- 4. We are instructed that the marriage between you and our client is irretrievably broken down and there are no chances of reconciliation. To avoid protracted / precipitous proceedings, our client is willing for resolution of the dispute amicably without making any allegation against each other and by mutual consent. Our client has instructed us to cause this notice notifying that our client is ready and willing to make sincere efforts to get the matrimonial discord amicably resolved through mutual consent and additionally call upon you to desist from filing/lodging false and malicious complaints or allegations against our client and his family members if any with an intention to harass them.*

Therefore, we hereby call upon you to communicate your willingness to seek resolution of the matrimonial discard amicably and dissolution of the marriage by mutual consent within fifteen days from the date of receipt of this notice and also call upon you to desist from filing any false

complaint/malicious proceedings against our client and his family members. If you choose to file any false complaint or commence any proceedings in spite of the receipt of this notice, our client will be constrained to defend the same and initiate appropriate proceedings before appropriate court at your risk as to cost and consequence therefore.

You are liable to pay Rs.10,000/- as cost of this Notice."

The apprehension of the petitioner was that the wife would register a complaint against him. Therefore, he causes a legal notice seeking amicable settlement and dissolution of marriage. The wife then registers a complaint before the jurisdictional Police on 01-12-2012. Since the entire issue has triggered from the complaint, the complaint requires to be noticed and is extracted hereunder for the purpose of quick reference:

"ರವರಿಗೆ,

ಪೊಲೀಸ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್
ಲಕ್ಷ್ಮೀಪುರಂ ಪೊಲೀಸ್ ಠಾಣೆ
ಮೈಸೂರು ನಗರ.

ಯಿಂದ,

ಶ್ರೀಮತಿ ಲಕ್ಷ್ಮೀ.ಎಂ.ಆರ್ ಕೋಂ ಪ್ರಮೋದ್ .ಆರ್.ಎಸ್
24 ಪರ್ಷ್, ನಾಮದೇವ ಸಿಂಪಿ, ಮರಾಠಿ
#18/1, ಹರಿಹರ ನಿಲಯ, ಎಂ.ಎನ್.ಜೋಯಿಸ್ ರೋಡ್
ಮರಿಮಲ್ಲಪ್ಪ ಸ್ಕೂಲ್ ಹತ್ತಿರ
ಮೈಸೂರು.
ಮೊ.ನಂ.8951569640.
ಮಾನ್ಯರೇ,

ವಿಷಯ: ನನ್ನ ಪತಿ ನನಗೆ ಮಾನಸಿಕವಾಗಿ ಹಾಗೂ ದೈಹಿಕವಾಗಿ ಹಿಂಸೆಕೊಟ್ಟು ನನ್ನನ್ನು ಕೊಲೆ ಮಾಡಲು ಪ್ರಯತ್ನ ಮಾಡಿರುವ ಬಗ್ಗೆ ದೂರು ಅರ್ಜಿ.

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ತಮ್ಮಲ್ಲಿ ಮನವಿ ಮಾಡಿಕೊಳ್ಳುವುದೇನೆಂದರೆ, ನಾನು ಮೈಸೂರಿನ ವಾಸಿ ಮೈ.ಪು.ರಾಜೇಶ್ ಎಂಬುವರ ಮಗಳಾಗಿದ್ದು, ನನಗೆ ದಿನಾಂಕ:19.04.2021ರಲ್ಲಿ ಕೊಡಗು ಜಿಲ್ಲೆಯ ಶನಿವಾರಸಂತೆಯ ವಾಸಿ ಸುರೇಶ್.ಎನ್ ರಾಕುಂಡೆ ರವರ ಮಗ ಪ್ರಮೋದ್.ಆರ್.ಎಸ್ ಎಂಬುವರ ಜೊತೆ ಶಾಸ್ತ್ರೀಕವಾಗಿ ಮದುವೆಯಾಗಿರುತ್ತದೆ. ನನ್ನ ಗಂಡ ಬಿ.ಇ ಪದವೀಧರರಾಗಿದ್ದು, ಬೆಂಗಳೂರಿನ ಖಾಸಗೀ ಕಂಪನಿಯೊಂದರಲ್ಲಿ ಸಾಫ್ಟ್‌ವೇರ್ ಇಂಜಿನಿಯರ್ ಆಗಿ ಕೆಲಸ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ. ನಾನು ಎಂ.ಬಿ.ಎ ಪದವೀಧರಳಾಗಿರುತ್ತೇನೆ. ಮದುವೆ ಸಮಯದಲ್ಲಿ ನನ್ನ ಪತಿಯವರಿಗೆ ಒಂದು ಕತ್ತಿನ ಚೈನು, ಬ್ರೇಸ್‌ಲೈಟ್ ಹಾಗೂ ಒಂದು ಉಂಗುರವನ್ನು ಕೊಟ್ಟಿದ್ದು, ನನಗೆ ಒಂದು ನೆಕ್‌ಲೆಸ್, 4 ಬಳೆ, 2 ಜೊತೆ ಜುಮುಕೆ, 2 ಜೊತೆ ಉಂಗುರ, 1 ಲಾಂಗ್ ಚೈನ್ ಹಾಗೂ ಸುಮಾರು 1/2 ಕೆ.ಜಿ ಯಷ್ಟು ಬೆಳ್ಳಿಯ ಸಾಮಾನುಗಳನ್ನು ಕೊಟ್ಟು ಮೈಸೂರಿನ ಚೈನ್ ಭವನದಲ್ಲಿ ಮದುವೆ ಮಾಡಿಕೊಟ್ಟರು. ಮದುವೆಯಾದ ನಂತರ ನಾನು ನನ್ನ ಗಂಡನ ಮನೆಯಾದ ಶನಿವಾರಸಂತೆಗೆ ಹೋಗಿದ್ದು, ಅಲ್ಲಿ ಸುಮಾರು 2 ತಿಂಗಳು ಮಾತ್ರ ಇದ್ದೆವು. ನನ್ನ ಗಂಡ ಬೆಂಗಳೂರಿನಲ್ಲಿ ಕೆಲಸ ಮಾಡುತ್ತಿದ್ದರಿಂದ ನಾನು ನನ್ನ ಗಂಡ ಬೆಂಗಳೂರಿನ ಜಿ.ಪಿ.ನಗರದ ಮ.ನಂ.:10, ಕೃಷ್ಣರಾಜ ಲೇಔಟ್, ಕಲ್ಯಾಣಿ ಮ್ಯಾಗ್ನಮ್ ಟೆಕ್ ಪಾರ್ಕ್ ಹತ್ತಿರ, ಸೈಯಾಡ್ರಿ ಲೇಔಟ್, ಪಾಂಡುರಂಗ ನಗರ, 7ನೇ ಫೇಸ್‌ನಲ್ಲಿ ವಾಸವಾಗಿದ್ದೆವು. ಆ ಸಮಯದಲ್ಲಿ ನನ್ನ ಗಂಡ ನನ್ನೊಡನೆ ಮದುವೆಯಾದ ಸುಮಾರು 15 ದಿನಗಳು ಮಾತ್ರ ಅನ್ಯೋನ್ಯವಾಗಿದ್ದೆವು. ನಂತರದ ದಿನಗಳಲ್ಲಿ ನನ್ನ ಗಂಡ ಮನೆಯಲ್ಲಿ ಸ್ಕೋಪ್ ಮಾಡುತ್ತಿದ್ದರು. ನಾನು ಈ ವಿಚಾರವಾಗಿ ನಾನು ನನ್ನ ಗಂಡನನ್ನು ನೀವು ಸ್ಕೋಪ್ ಮಾಡುತ್ತೀರ ಎಂದು ಕೇಳಿದಾಗ, ನನ್ನನ್ನು ಅಪಾಚ್ಯ ಶಬ್ದಗಳಿಂದ ಬೈದರು. ನಂತರ ನಾನು ಈ ವಿಚಾರವನ್ನು ನಿಮ್ಮ ತಂದೆತಾಯಿಗೆ ಹೇಳುತ್ತೇನೆ ಎಂದಾಗ, ನೀನು ನನ್ನ ತಂದೆ ತಾಯಿಗೆ ಯಾವ ವಿಚಾರವನ್ನೂ ಹೇಳಬೇಡ ಅವರಿಗೆ ಏನೂ ಗೊತ್ತಿಲ್ಲ. ನಿಮ್ಮ ತಂದೆ ತಾಯಿಗೂ ಸಹ ಹೇಳಬೇಡ ಎಂದು ಹೇಳಿದರು. ನಂತರದ ದಿನಗಳಲ್ಲಿ ಕುಡಿಯಲು ಶುರು ಮಾಡಿದರು. ಅಲ್ಲದೆ ಕುಡಿದು ಬಂದಾಗ ನನಗೆ ಬೈದು ಹೊಡೆದು ಮಾಡುತ್ತಿದ್ದರು. ಅಲ್ಲದೆ ನನಗೆ ಲೈಂಗಿಕವಾಗಿ ನನಗೆ ಇಷ್ಟವಿಲ್ಲದಿದ್ದರೂ ನನ್ನನ್ನು ತುಂಬಾ ಕೆಟ್ಟದಾಗಿ ನಡೆಸಿಕೊಂಡಿರುತ್ತಾರೆ. ಅಲ್ಲದೆ ನನ್ನ ಗಂಡ ಕುಡಿದು ಬಂದು ನನ್ನ ತಲೆಯನ್ನು ಗೋಡೆಗೆ ಹೊಡೆದು ದೈಹಿಕವಾಗಿ ತುಂಬಾ ಹಿಂಸೆ ಕೊಟ್ಟರು. ಅಲ್ಲದೆ ನನ್ನನ್ನು ಪಬ್ ಮಲ್ಟು ಬಾರ್ಗೆ ಬರುವಂತೆ ಹಿಂಸೆ ಮಾಡಿ, ನನಗೆ ಒಂದೆರಡು ಬಾರಿ ಒತ್ತಾಯಪೂರ್ವಕವಾಗಿ ವಾಡ್ಯವನ್ನು ಕುಡಿಸಿರುತ್ತಾರೆ. ಅಲ್ಲದೆ ಮನೆಯಲ್ಲಿ ಅವರ ಸ್ನೇಹಿತರನ್ನು ಕರೆದುಕೊಂಡು ಬಂದು ಕಾರ್ಡ್ಸ್ ಸಹ ಇಡುತ್ತಿದ್ದರು. ಅಲ್ಲದೆ ನನ್ನ ಗಂಡನಿಗೆ ಬೇರೆ ಹುಡುಗಿಯರ ಜೊತೆ ಅಸಭ್ಯವಾಗಿ ನಡೆದುಕೊಳ್ಳುವ ಅಭ್ಯಾಸ ಸಹ ಇದೆ. ಈ ವಿಚಾರವನ್ನು ನಾನು ನನ್ ಅತ್ತೆ ಮಾವರವರೊಡನೆ ಹೇಳಿಕೊಂಡಾಗ ಅವರು ನೀನೇ ಹೊಂದಿಕೊಂಡು ಹೋಗು ಎಂದು ಹೇಳುತ್ತಿದ್ದರು. ಈ ವಿಚಾರವನ್ನು ನಾನು ನನ್ನ ತಂದೆ ತಾಯಿಗೆ ತಿಳಿಸಿರಲಿಲ್ಲ. ನಂತರ ಆಗಸ್ಟ್ 14 ರಂದು ನಿನ್ನ ತಂದೆಯ ಹತ್ತಿರ ನನಗೆ ಬೆಂಗಳೂರಿನಲ್ಲಿ ಒಂದು ಫ್ಲಾಟ್ ತೆಗೆದುಕೊಡುವಂತೆ ಹೇಳು. ಇಲ್ಲ ಎಂದರೆ ನೀನು ನಿಮ್ಮ ಅಪ್ಪನ ಮನೆಯಲ್ಲೇ ಇರು ಎಂದು ನನ್ನ ಜೊತೆ ಜಗಳ ಮಾಡಿ, ನನ್ನನ್ನು ನನ್ನ ಮಾಂಗಲ್ಯ ಚೈನ್‌ನಿಂದ ಕತ್ತಿಗೆಗೆ ಬಿಗಿದು ನನ್ನನ್ನು ಕೊಲೆ ಮಾಡಲು ಪ್ರಯತ್ನಪಟ್ಟರು. ಅಲ್ಲದೆ ನನ್ನನ್ನು ತುಂಬಾ ಹೊಯ್ದು, ಗೋಡೆಗೆ ಹೊಡೆದಿದ್ದರಿಂದ ನನಗೆ ತಡೆಯಲಾಗದೆ ಅವರ ಜೊತೆ ತಿರುಗೆ ಮಾಡನಾಡಲಿಲ್ಲ. ನಂತರ ಸುಮ್ಮನಾದರು. ನಂತರ ಆಗಸ್ಟ್ 15 ರಂದು ಮೈಸೂರಿನ ನನ್ನ ತಂದೆ ಮನೆಗೆ ಕರೆದುಕೊಂಡು ಬಂದು ಬಿಟ್ಟು, ನೀನು ನಿನ್ನ ತಂದೆ ಬೆಂಗಳೂರಿನಲ್ಲಿ ಒಂದು ಫ್ಲಾಟ್ ಕೊಡಿಸುವವರೆಗೂ ನೀನು ಬರಬೇಡ ಎಂದು ಹೇಳಿ ನನ್ನ ತಂದೆ ಮನೆಯಿಂದ ಹೊರಗೆ ಬಂದಾಗ ಅವರ ಎದುರಿನಲ್ಲೇ ನನಗೆ ಕಪಾಲಕ್ಕೆ ಹೊಡೆದು ನನ್ನನ್ನು ಸಾಯಿಸುವ ಉದ್ದೇಶದಿಂದ ನನ್ನ ಕುತ್ತಿಗೆಯನ್ನು ಹಿಡಿದು ನನ್ನನ್ನು ಸಾಯಿಸಲು ಪ್ರಯತ್ನಪಟ್ಟಾಗ, ನನ್ನ ತಂದೆ ಬಂದು ಬಿಡಿಸಿದರು. ಈ ಸಂಬಂಧ ನಂತರ ನನ್ನ ತಂದೆ ನನ್ನನ್ನು ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಹೋಗಿ ಚಿಕಿತ್ಸೆ ಕೊಡಿಸಿದಾಗ, ವೈದ್ಯರು ನನ್ನ ಸ್ಪೈನಲ್ ಕಾರ್ಡ್‌ಗೆ ತೊಂದರೆಯಾಗಿದೆ ಎಂದು ತಿಳಿಸಿರುತ್ತಾರೆ. ಇದಕ್ಕೆ ನಾನು ಇನ್ನೂ ಚಿಕಿತ್ಸೆ ಪಡೆದುಕೊಳ್ಳುತ್ತಿದ್ದೇನೆ. ನಾನು ನಮ್ಮ ಮನೆಯ ಮರ್ಯಾದೆ ಹೋಗುವುದು ಬೇಡವೆಂದು ಯೋಚಿಸಿಕೊಂಡು ಸುಮ್ಮನಿದ್ದೆ. ಈ ವಿಚಾರದಲ್ಲಿ ನನ್ನ ಅತ್ತೆ ಮಾವ ನನ್ನ ಗಂಡನನ್ನೇ ಬೆಂಬಲಿಸುತ್ತಾರೆ. ದಯಮಾಡಿ ನನಗೆ ಇಷ್ಟೆಲ್ಲಾ ವರದಕ್ಷಿಣೆ ಹಣಕಾಸಾಗಿ ದೈಹಿಕವಾಗಿ ಹಾಗೂ ಮಾನಸಿಕವಾಗಿ ಹಿಂಸೆಕೊಟ್ಟು, ನನ್ನನ್ನು ಕೊಲ್ಲಲು ಪ್ರಯತ್ನಪಟ್ಟ ನನಗೆ ಬೇವ ಬೆದರಿಕೆಯನ್ನು ಹಾಕುವ ನನ್ನ ಗಂಡನ ವಿರುದ್ಧ ಕಾನೂನಿನ ರೀತಿಯ ಕ್ರಮ ಕೈಗೊಂಡು ನನಗೆ ನ್ಯಾಯ ದೊರಕಿಸಿಕೊಡಬೇಕೆಂದು ಕೇಳಿಕೊಳ್ಳುತ್ತೇನೆ. ನಾನು ಇದುವರೆವಿಗೂ ನನ್ನ ಗಂಡ ಮನಸ್ಸು ಬದಲಾಯಿಸಿಕೊಂಡು ನನ್ನನ್ನು ಕರೆದುಕೊಂಡು ಹೋಗಬಹುದೆಂದು ಕಾದೆ. ಆದರೆ ನನ್ನ ಗಂಡ ನನ್ನ ಫೋನ್ ಕರೆಯನ್ನೂ ಸಹ ಸ್ವೀಕರಿಸುತ್ತಿಲ್ಲ. ಇದರಿಂದ ಬೇಸರವಾಗಿ ನಾನು ಈ ದಿನ ಬಂದು ದೂರು ನೀಡುತ್ತಿದ್ದೇನೆ.”

(Emphasis added)

The narration in the complaint is about several instances of torture by the husband against the wife, both mental and physical. The wife also narrates that the husband attempted to take the life of the wife by strangulating her. It is said that she has taken treatment for the injury of the spinal cord as well, due to the blows suffered from the hands of the husband.

8. The matter is at the stage of investigation. Therefore, the papers of investigation were summoned for perusal. On a perusal at the papers of investigation and statements available therein would clearly indicate the ingredients of the offences so alleged. There are communications from the Hospital sought by the Investigating Officer which indicate the treatment. *Prima facie*, I find the offences being met, they are to be investigated. At this stage, quashment of proceedings against the petitioner/husband would not arise on the ground that the complaint is registered immediately after receipt of the legal notice caused by the petitioner. Section 498A of the IPC reads as follows:

"498-A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or

the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purposes of this section, “cruelty” means—

- (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or*
- (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”*

There is some purpose in the aforesaid provision. The statements recorded during investigation clearly indicate that those ingredients are *prima facie* met. Section 307 of the IPC is also alleged against the petitioner. The complaint clearly makes out ingredients of the offence under Section 307 of the IPC which deals with attempt to murder. Strangulation and giving blows on the back is what is alleged in the complaint. If these ingredients are to be ignored and brushed aside merely because the complaint is registered immediately after receipt of the notice of divorce or amicable settlement for dissolution of marriage, it would lead to a disastrous effect. As in a given case, if the allegations of torture are made

over a period of time, say a year or two or even in the immediate past of the complaint and **'the husband issuing a notice for divorce simultaneously or immediately before the complaint, will not and can by no stretch of imagination result in the complaint rendering itself insignificant'**. It would require investigation. It would be altogether a different circumstance if the complaint does not even make out ingredients of the offence so alleged or does not lay down the necessary foundation for alleging the offences in a given case.

9. It is no doubt true that there are cases after cases where members of the family are dragged into the web of crime by the wife while registering the complaint invoking Section 498A of the IPC. The offences are justified, in some cases and offences are in abuse of the process of law, in some cases. Therefore, it is to be considered on a case to case basis. There cannot be a declaration of law as is contended by the learned counsel for the petitioner that once the divorce notice is sent by the husband, the complaint registered by the wife thereafter loses its significance. If this contention is accepted, it would have a chilling effect on all the

complaints. Therefore, this submission is noted only to be rejected, as it is fundamentally flawed.

10. Insofar as the judgment relied on by the learned counsel for the petitioner rendered by the co-ordinate Bench in Crl.P.No.201257 of 2019 the reasons rendered by the co-ordinate Bench are as follows:

*"06. On careful reading of the dictum of the Hon'ble Supreme Court, in the present case, the respondent No.2 lodged the written complaint, which carries four pages. The complaint contains several allegations against the petitioners. However, till 25.12.2018, she has not lodged any complaint against the in-laws. In the complaint there is specific allegation about assault made out against all the petitioners. However, it appears that the allegations are omnibus and absurd in nature and the said allegations are not sufficient to invoke the provisions as stated supra. Unless, there are no allegations made out against each petitioners independently, it cannot be construed that the petitioners have committed the offence. Regard being had to the submission of the learned counsel for the petitioners that the husband of the respondent No.2 had filed divorce petition on 17.12.2018 at Solapur Family Court. As a token of retaliation, the respondent No.2 filed complaint against all the petitioners assumes greater significance. **Therefore, the criminal case filed by the wife, in respect of cruelty, dowry harassment against the husband and in-laws loses its significance, in case the complaint is made, after receiving the divorce notice from her husband.** Hence, it is a fit cases to exercise the inherent jurisdiction to quash the proceedings."*

(Emphasis in original)

The decision of the co-ordinate Bench holding that criminal case filed by the wife in respect of cruelty and dowry harassment against the husband and in-laws would lose any significance in case the complaint is made after receiving the divorce notice from the husband, defeats the very object of Section 498A of the IPC, or even complaints made under Section 12 of the Protection of Women from Domestic Violence Act, 2005. The purpose in introducing chapter XX-A bringing in Section 498A in the Indian Penal Code was with the objective to prevent torture to a woman by her husband or by the relatives of the husband. It was added with a view to punish such people aforesaid, who would meet out harassment or torture to the wife to satisfy their unlawful demands of dowry.

11. If the aforesaid hyper-technical contention is accepted, it would act against the interests of women and the object for which the provision was added. The enactment of the legislature with the aforesaid purpose cannot be rendered illusory by a declaration that the complaint would lose its significance for the reason that it is

registered immediately after the receipt of a notice of divorce from the hands of the husband. Therefore, the declaration of law made by the co-ordinate Bench can at best be held to be applicable and restrictable, to the facts obtaining in the said case. The submission of the learned counsel that it is universally made applicable in terms of the order is unacceptable, particularly *qua* the facts obtaining in the case at hand. Though the proceedings therein were quashed at the FIR stage, I deem it appropriate not to accede to the contention of the learned counsel for the petitioner that the said judgment should be followed and the present proceedings obliterated against the petitioner.

12. For the aforesaid reasons, I pass the following:

ORDER

- (i) Criminal Petition is dismissed.
- (ii) It is made clear that the observations made in the course of the order are only for the purpose of

consideration of the case of petitioner under Section 482 of Cr.P.C. and the same shall not bind or influence the investigation against him in Crime No.61 of 2022 or any other proceedings.

As a consequence, I.A.No.1 of 2023 also stands disposed.

**Sd/-
JUDGE**

bkp
CT:SS