



2025 INSC 504

1

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____ OF 2025
[arising out of SLP(Crl.) No.9167/2024]

KAMAL & ORS.

APPELLANTS

VERSUS

STATE OF GUJARAT & ANR.

RESPONDENTS

O R D E R

1 Leave granted.

2. This appeal arises from a petition filed by the appellants, under Section 482 of the Code of Criminal Procedure, 1973 (for short the CrPC), seeking quashing of the First Information Report (for short FIR) (C.R. No. I-163 of 2019 at Chandkheda Police Station, District Ahmedabad City) and the criminal proceeding arising therefrom, pending as Criminal Case No. 116 of 2020 on the file of the Chief Judicial Magistrate, First Class, Gandhinagar, in respect of offences punishable under Sections 498-A and 114 of the Indian Penal Code, 1860 (for short "the IPC"). By the impugned order dated 01.02.2024 the High Court of Gujarat dismissed the petition.

3. The appellants 1, 2 and 3 are husband, father-in-law and mother-in-law, respectively, of the second respondent. The second respondent was married to the first appellant on 05.09.2005. On 15.05.2019, the first appellant filed for divorce. The summons of the divorce proceedings were served upon the second respondent on 17.07.2019. On 20.07.2019, the second respondent lodged the impugned FIR. After investigation, a charge-sheet was laid against the appellants giving rise to the impugned criminal proceedings.

4. The appellants sought quashing of the impugned criminal proceedings on the ground that it is vexatious, a counterblast to the divorce proceedings and amounts to abuse of the process of the Court.

5. The High Court rejected the prayer of the appellants on the ground that the FIR alleges of mental harassment of the complainant and there are also allegations, though bereft of details, regarding demand of money earned by the complainant by way of salary. The High Court opined that once the allegations are there, whether they are true or false, would be determined during the trial, therefore the quashing petition is liable to be dismissed.

6. Aggrieved by the order of the High Court, this appeal has been filed.

7. The submission of the learned counsel for the appellants

is that the allegations levelled against the appellant are not relating to demand of dowry. Rather, the thrust is on first appellant's affair with another lady. Though some allegations are there in respect of mental and physical torture of the complainant, they are completely vague without reference to any specific event. Moreover, the parents in law of the complainant have been residing separate therefore their implication is clearly mala fide. Besides above, the FIR is a counter blast to the divorce proceedings. Further, this is a peculiar case where the allegations in respect of harassment have come after 14 (fourteen) years of marriage and only three days after the summons of the divorce proceedings were served upon the complainant (the informant). In these circumstances, it is submitted, the continuance of the proceedings against the appellants, particularly the parents in law of the second respondent, would be abuse of the process of the Court.

8. Per contra, learned counsel for the second respondent has submitted that this is a case where investigation has led to submission of charge-sheet, therefore the correctness of the allegations would be determined during trial and not at this stage. It has been submitted that allegations make out a case of mental and physical torture of the complainant therefore an offence punishable under Section 498-A of the IPC is made out against the appellants.

9. We have considered the rival submissions and have perused the materials on record.

10. A perusal of the impugned FIR would disclose that the complainant at the time of lodging the FIR had been living with her own parents. The allegations are that initially, after marriage, there were no issues. Later, when parents in law started living with her husband, she had to suffer taunts at their end on trivial issues. When she complained about this to her husband, he sided with his parents and even assaulted the complainant. It is alleged that she informed her parents and uncle about this, who counselled her to have patience in the interest of the family. FIR also discloses that since 2008 she is having a job. Initially with Ugam Solutions and, later, as a lecturer for nine years. She admits of having stayed at different places in rented accommodation post her marriage. However, she alleges that she used to hand over her salary to her father-in-law who used to deprive her of her money. Besides that, she alleges of her husband having an affair with his business partner for the last two years and because of that he had been constantly torturing her, both physically and mentally, to end the relationship and with that motive divorce petition has been filed.

11. What is important, for the purposes of deciding this case, is that in the FIR there is no specific allegation of demand

of dowry by the accused. Further, the allegation of harassment of the complainant at the instance of the parents in law is limited to extending taunts and custody related issues of minor children. However, there is no disclosure about the nature of those taunts. Admittedly, the second respondent was married to the first appellant in the year 2005 and for last several years since before lodging the FIR, the complainant had been working and staying in rented accommodations at different places. Besides that, the FIR was lodged on 20.07.2019, just three days after service of summons of the divorce proceedings initiated by the first appellant. In these circumstances, we will have to consider whether the impugned proceedings are vexatious and mala fide, particularly in the context of a matrimonial dispute where time and again Courts have been cautioned to be circumspect to obviate malicious prosecution of family members of the main accused.

12. Even if we assume that there are some allegations of assault and of physical and mental torture of the complainant, but they are against the husband. As against the parents in law, the allegations are only of extending taunts and of not parting with the money for managing household expenses. Specific details in respect of those taunts have not been disclosed. Moreover, a few taunts here and there is a part of everyday life which for happiness of the family are usually

ignored. Interestingly, as per own allegations in the FIR, the complainant admits that when she reported those issues to her parents and uncle, she was counselled to bear patience. In the circumstances, in our considered view, no case to proceed against the parents in law, namely, the second and third appellant is made out. In so far as the first appellant is concerned, there are allegations of physical and mental torture of the complainant at his behest. Consequently, the case may proceed *qua* the first appellant.

13. Before parting, we would like to observe that the High adopted an extremely pedantic approach while dealing with the quashing petition of the appellants. No doubt, in ordinary course, while exercising power under Section 482 of the CrPC, the Court is not required to test the correctness of the allegations, but in matters arising from matrimonial disputes, particularly where the allegations are levelled after many years of marriage and, that too, after one party initiates divorce proceeding against the other, the Court must be circumspect in taking the allegations at their face value. Rather, it must examine, where allegations of *mala fides* are there, whether those allegations have been levelled with an oblique purpose. More so, while considering the prayer of the relatives of the husband.

14. In view of the discussion above, in our view, the

continuance of the proceedings as against the parents-in-law (second and third appellants) would amount to abuse of the process of the Court and therefore we deem it appropriate to partly allow this appeal and quash the impugned proceedings *qua* the second and third appellants. Consequently, the judgment and order of the High Court dismissing the Section 482 petition *qua* the second and third appellants is set aside. The impugned FIR and the consequential proceedings *qua* the second and third appellants stand quashed. The proceedings against the first appellant shall continue and brought to its logical conclusion in accordance with law.

15. The appeal is partly allowed to the extent indicated above.

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

.....J.
[MANOJ MISRA]

.....J.
[MANMOHAN]

New Delhi;
April 16, 2025.

ITEM NO.12

COURT NO.17

SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Special Leave to Appeal (Crl.) No(s). 9167/2024

[Arising out of impugned final judgment and order dated 01-02-2024 in CRMA No. 16100/2021 passed by the High Court of Gujarat at Ahmedabad]

KAMAL & ORS.

Petitioner(s)

VERSUS

STATE OF GUJARAT & ANR.

Respondent(s)

IA No. 124605/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 124606/2024 - EXEMPTION FROM FILING O.T.

IA No. 140370/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ ANNEXURES

Date : 16-04-2025 This matter was called on for hearing today.

**CORAM : HON'BLE MR. JUSTICE MANOJ MISRA
HON'BLE MR. JUSTICE MANMOHAN**

**For Petitioner(s) :Mr. Mohd Parvez Dabas, Adv.
Mr. Uzmi Jameel Husain, Adv.
Mr. Nadeem Qureshi, Adv.
Mr. Syed Mehdi Imam, AOR**

**For Respondent(s) :Mr. Prashant Bhagwati, Adv.
Ms. Swati Ghildiyal, AOR

Mr. Siddhant Sharma, AOR
Mr. Prafull Bhardwaj, Adv.**

**UPON hearing the counsel the Court made the following
O R D E R**

1. Leave granted.
2. The appeal is partly allowed in terms of the signed reportable order.
3. Pending application(s), if any, stand disposed of.

(JATINDER KAUR)
P.S. to REGISTRAR

(SUDHIR KUMAR SHARMA)
COURT MASTER (NSH)

[Signed reportable order is placed on the file]