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2026:GUJHC:66850

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC. APPLICATION (FOR QUASHING & SET ASIDE FIR/ORDER) NO. 2785 of 2018

FOR APPROVAL AND SIGNATURE:
HONOURABLE MR.JUSTICE P. M. RAVAL

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Approved for Reporting	Yes	No
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HANSABEN W/O. NATWARLAL CHAUHAN
Versus
STATE OF GUJARAT & ANR.

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Appearance:
MR HARSHIT TOLIA, SR ADVOCATE with HARDIKKUMAR D RAO(8174) for the Applicant(s) No. 1
MR.JAY S SHAH(7244) for the Respondent(s) No. 2
MR ROHAN SHAH, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR.JUSTICE P. M. RAVAL**

Date : 22/10/2026

ORAL JUDGMENT

1. This application under Section 482 of the Criminal Procedure Code, 1973 (the Code) is filed by the applicant – who is the mother-in-law of the respondent No. 2 - *de facto* complainant, praying to quash and set aside the FIR being I-C.R. No. 4 of 2018

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dated 13.01.2018, registered with Mahila Police Station (East), District: Ahmedabad for the offences punishable under Sections 498A, 323, 494, 406 and 114 of the Indian Penal Code, 1860 (IPC).

2. Facts in nutshell of the case of the prosecution are that marriage of the son of the present applicant namely Himanshu Natvarlal Chauhan solemnized with the *de facto* complainant on 01.02.2007 and they went to London and were residing there. It is further the case of the prosecution that present applicant being mother-in-law of respondent No. 2 went to stay for short time at London with original accused No. 1 being his son and the present respondent No. 2 and during that period, allegation of abetting the original accused No. 1 of ill-treatment to the respondent No. 2 herein is levelled. It is further alleged that since 30.04.2017, original accused No. 1 informed respondent No. 2 that he is not interested in the complainant – respondent No. 2 herein and married to her with a view to settle in London only.

2.1 It is also alleged that original accused No. 1 filed divorce petition before a Court of London and that, the husband and wife (original accused No. 1 and the respondent No. 2 herein) are residing separately.

2.2 It is further alleged that subsequently, the respondent No. 2 came to know that the accused No. 1 *i.e.* husband – Himanshu also remarried with another girl namely Vaishaliben Solanki in

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December 2012 and thereafter, took divorce from her also. It is alleged that the applicant did not inform the respondent No. 2 about the second marriage of the husband – accused No. 1 and thereby, abetted the offence. Thus, on the said facts, FIR in question came to be registered.

3. Heard, learned senior advocate for the applicant, the learned advocate for the respondent No. 2 - *de facto* complainant and the learned Additional Public Prosecutor for the respondent – State and perused the material on record.

3.1 The learned senior advocate for the applicant would submit that present applicant is the mother-in-law and is not aware about the *factum* of remarriage of the accused No. 1 – son of the applicant with another girl and that, the accused No. 1 is residing in London for last about 10 years. It is submitted that the present FIR is filed by the respondent No. 2 with an oblique and ulterior motive, only with a view to pressurize the present applicant so as to come to the terms with her.

3.2 The learned senior advocate for the applicant would further submit that present applicant is falsely arraigned in the crime in question inasmuch as, the entire dispute is between the husband and the wife and she being the mother-in-law, has been wrongly roped into the alleged offence and thus, continuation of criminal proceedings against the present applicant would amount to abuse

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of process of law.

3.3 It is submitted that no *prima facie* case for the offence punishable under Sections 498A, 494, 406, and/or 323 IPC is made out against the present applicant inasmuch as, the marriage between the son of the present applicant (original accused No. 1) and the respondent No. 2 is void for the reason that wife (respondent No. 2), having stated to be unmarried at the time of contracting marriage with the original accused No. 1 – son of the applicant, nonetheless, took divorce from her earlier husband only on 20.11.2007, whereas, the marriage of the accused No. 1 and the respondent No. 2 was solemnized on 01.02.2007, and as such, no case under any of the sections is made out against the present applicant.

3.4 It is submitted that so far as offence punishable under Section 323 of the IPC is concerned, the allegations are too vague and general and would not fall within the four corners of the provisions of such an offence. Further, so far as offence punishable under Section 406 IPC is concerned, it is submitted that there is no question of entrustment of any property or with any dominion over the property and that, there is no allegation of either such entrustment or dishonest misappropriation or conversion of the property by anyone.

3.5 The learned senior advocate for the applicant would also

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submit that even otherwise there is delay in lodging the FIR for which, no plausible explanation is forthcoming on record.

3.6 Thus, making above submissions, it is requested to allow this application as no *prima facie* case is made out against the present applicant.

4. *Conversely*, the learned advocate for the respondent No. 2 - *de facto* complainant would submit that a *prima facie* strong case is made out against the present applicant on the bare reading of the FIR itself and accordingly, this Court should not interfere in the criminal proceedings motioned against the applicant and may not conduct a mini trial while considering the quashing application.

4.1 The learned advocate for the original complainant would further submit that the present applicant suppressed the fact of second marriage of the accused No. 1 – husband with another girl from the present complainant and thereby, abetted the accused No. 1 and thus, the matter requires a thorough investigation and thus, requested to dismiss this application.

4.2 The learned advocate for the respondent No. 2 as well as the learned Additional Public Prosecutor for the respondent – State submitted that as per the settled law, inherent powers under Section 482 of the Code should be used sparingly and with a view to curb the abuse of process of law. It is submitted that in the case

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on hand, a *prima facie* case is made out against the applicant and hence, they requested that it is ultimately a matter of trial after which, the truth could be churned out and hence, it is requested not to entertain this application and it is requested to be rejected.

5. Heard, the learned advocates for the parties and perused the papers available on record.

5.1 At the outset, it would be apt to refer to a decision in case of ***State of Haryana v. Bhajan Lal, AIR 1992 SC 604***, wherein, the Hon'ble Apex Court crystallized seven distinct, illustrative categories of cases where judicial intervention under Section 482 of the Code or Article 226 of the Constitution is necessitated to secure the ends of justice and clip any abuse of the process of Court. The relevant portion of Paragraph 102 of the said judgment is extracted below:

> *"(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.*
>
> *(2) Where the allegations ins the F.I.R. and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under S.156(1) of the Code except under an order of a Magistrate within the purview of S.155(2) of the code.*
>
> *(3) Where, the uncontroverted allegations made in the F.I.R. or complaint and the evidence collected in support of the same do not*

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disclose the commission of any offence and make out the case against the accused.

(4) Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under S.155(2) of the Code.

(5) Whether, the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where, there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with malafide 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."

5.2 The applicant has preferred this application under Section 482 of the Code, seeking the quashing of the First Information Report (FIR) and all consequential proceeding in pursuance thereto. The allegation against the present applicant, more particularly, is to abet the original accused No. 1.

5.3 Before adverting to the case on hand, it would be appropriate to refer to a decision of the Apex Court in ***Preeti Gupta v. State of Jharkhand, 2010 (0) AIJEL-SC 48656***, wherein the

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Court held:

> *"28. It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the Courts in our country including this Court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.*
>
> *29. The Courts are receiving a large number of cases emanating from Section 498-A of the Indian Penal Code which reads as under:-*
>
> *["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."]*
> *]*
>
> *30.* ***It is a matter of common experience that most of these complaints under Sec. 498-A IPC are led 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 led with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.***

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31. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber 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 led 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 Sec. 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 fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

32. Unfortunately, at the time of ling of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

33. 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 husband and all his immediate relations is also not uncommon. At times, even after the conclusion of 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 scrutinized with great care and circumspection. 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 led by the complainant if the husband or the husband's relations : had to remain in jail even for a few days,

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it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.

34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very: large number of cases.

35. 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 suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the Courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law & Justice to take appropriate steps in the larger interest of the society."

5.4 Further, in the decision in ***Kahkashan Kausar @ Sonam v. State of Bihar, 2022 (0) AIJEL-SC 68351***, the Apex Court observed that:

"12. Before we delve into greater detail on the nature and content of allegations made, it becomes pertinent to mention that incorporation of section 498A of IPC 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,

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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 498A IPC as instruments to settle personal scores against the husband and his relatives.

13. This Court in its judgment in Rajesh Sharma and Ors. Vs. State of U.P. & Anr., (2018) 10 SCC 472 has observed:-

> *"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 the Act 46 of 1983. The expression 'cruelty' in Section 498A 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. It is a matter of serious concern that large number of cases continue to be led under 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 led in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of ling of the complaint, implications and consequences are not visualized. 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."*

14. Previously, in the landmark judgment of this court in Arnesh Kumar Vs. State of Bihar and Anr., (2014) 8 SCC 273 it was also observed:-

> *"4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A IPC was introduced with avowed object to combat the menace of harassment to a*

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woman at the hands of her husband and his relatives. The fact that Section 498-A IPC 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 a quite number of cases, bed- ridden grandfathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested."

15. xxx

16. 16. In Geeta Mehrotra & Anr. Vs. State of UP & Anr., (2012) 10 SCC 741 it was observed:-

"21. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of G.V. Rao vs. L.H.V. Prasad & Ors. reported in (2000) 3 SCC 693 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: "there has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, 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 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 reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate the 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

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different courts." The view taken by the judges in this matter was that the courts would not encourage such disputes."

17. Recently, in K. Subba Rao v. The State of Telangana, (2018) 14 SCC 452 it was also observed that:-

> *"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."*

18. The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of section 498A 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.

5.5 Tested on the above observations in various pronouncements of the Apex Court, if the case on hand is adverted, following undisputed facts are emerged:

i) the respondent No. 2 – original complainant earlier married to one Bakul Jasvantlal Shah on 12.05.2003;

ii) the marriage of the respondent No. 2 herein and the original

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accused No. 1 (son of the applicant herein) came to be solemnized on 01.02.2007;

iii) the respondent No. 2 - de facto complainant filed a divorce petition on 26.07.2007 before the Family Court at Ahmedabad wherein, the divorce decree came to be passed on 20.11.2007;

iv) the applicant and the original accused No. 1 (son of the present applicant) and the respondent No. 2 - de facto complainant having stayed together from 01.02.2007 i.e. from the date of marriage till 18.10.2007 i.e. the date on which, the original accused No. 1 husband as well as the complainant left for London;

v) as far as these eight months are concerned, there are no allegations against the present applicant, however, the allegations are with regard to physical abuse in London somewhere in November 2014;

vi) complainant – respondent No. 2 herein and the original accused No. 1 filed divorce petition in London in April 2017, whereas, the present FIR is filed only on 13.01.2018.

5.6 At this stage, it would also be apt to refer to the decision of the Apex Court in ***P.Sivakumar and Others v. State Rep. By The Deputy Superintendent of Police etc., 2023 SCCOnLine 1737***, wherein, the Court held:

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> *"7. Undisputedly, the marriage between the appellant No.1 and PW-1 has been found to be null and void. As such the conviction under Section 498-A IPC would not be sustainable in view of the judgment of this Court in the case Shivcharan Lal Verma's case supra. So far as the conviction under Sections 3 and 4 of the Dowry Prohibition Act is concerned, the learned trial Judge by an elaborate reasoning, arrived at after appreciation of evidence, has found that the prosecution has failed to prove the case beyond reasonable doubt. In an appeal/revision, the High court could have set aside the order of acquittal only if the findings as recorded by the trial Court were perverse or impossible."*

5.7 Further, in ***Shivcharan LaL Verma and Anr. v. State of M.P., (2007) 15 SCC 369***, while dealing in a Criminal Appeal against conviction under Sections 498A and 306 IPC, the Apex Court held that, "*alleged second marriage of a person, during the subsistence of a first valid marriage is null and void*", and therefore, the conviction under Section 498A IPC was set aside however, the conviction under Section 306 IPC was confirmed.

6. From the undisputed facts on record, the *factum* of marriage of the respondent No. 2 herein with one Bakul Jasvantlal Shah prior to the marriage with the original accused No. 1 on 01.02.2007, came to be dissolved only on 20.11.2007 and thus, as per the settled legal position, the marriage with the present accused No. 1 is null and void and therefore, there is no question of attraction of Section 498A IPC.

6.1 So far as allegations of physical abused is concerned, the said allegations are of November 2014 when original accused No. 1 –

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son of the present applicant, present applicant and the complainant were residing in London. The allegations appear to be vague and general in nature. No specific details, date, time and or place have been narrated in the FIR. Further, in view of the afore-stated settled legal position, when the present applicant has been roped into the offence in question without there being any role attributed to her, the same does not inspire confidence.

6.2 As far as allegation for the offence punishable under Section 494 IPC is concerned, the same relates to punishment when marriage is solemnized again during the lifetime of husband or wife. It clearly transpires from the undisputed facts that subsisting previous marriage, the present complainant wife married with the original accused No. 1 – son of the present applicant and having married with him, obtained divorce decree. Though, it is alleged that there is customary divorce, however, the learned advocate for the *de facto* complainant could not point out, either from the record or from any document as to prevalence of such a custom in the caste to which, the complainant belonged. Be that as it may, the allegations that the original accused No. 1 had married subsequently, to another girl namely Vaishaliben Solanki in the year 2012 and also obtained divorce from her, would pale into insignificance in view of the fact that the complainant herself entered into marriage with the son of the present applicant - original accused No. 1 in subsistence of previous marriage.

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6.3 So far as Section 406 of the IPC is concerned, which relates to punishment for criminal breach of trust as defined under Section 405 IPC, where the requirements are: i) entrustment with property, or with any dominion over the properly, and ii) on such entrustment, where, the accused by dishonest intention, misappropriates or converts to his own use that property, to the detriment of the person who entrusted such property, are the requirements. In the absence of any such entrustment alleged in the FIR in question itself, the question of attracting the penal provision under Section 406 IPC does not arise.

6.4 So far as Section 114 IPC is concerned, when the ingredients of the substantive offences are not satisfied, as discussed herein above, so far as the present applicant is concerned, this section would not apply.

7. In view of the above, taking into consideration the facts and circumstances of the case *vis-a-vis* the aforesaid decisions of the Apex Court, this Court is of the considered opinion that the present case squarely falls within the parameters (1), (3), (5) and (7) as enshrined in the case of ***Bhajan Lal (supra)*** as the proceedings against the present applicants appear to be manifestly frivolous and instituted with the ulterior motive for wreaking vengeance and accordingly, the Court is inclined to exercise powers vested under Section 482 of the Code and quash the FIR *qua* the present applicant.

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8. *In fine*, this application succeeds and is allowed, accordingly. FIR being I-C.R. No. 4 of 2018 dated 13.01.2018, registered with Mahila Police Station (East), District: Ahmedabad for the offences punishable under Sections 498A, 323, 494, 406 and 114 of the Indian Penal Code, 1860, along with all consequential proceedings emanating therefrom, is quashed and set aside *qua* the present applicant.

8.1 Rule is made absolute, accordingly. **Direct service** is permitted.

[P. M. Raval, J.]

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