



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous (Petition) No. 5021/2019
CNR: RJHC020687522019 | URN: CRLMP / 9268U / 2019



-----Petitioner

Versus

1. State Of Rajasthan, Through Pp.
- 2.

-----Respondents

For Petitioner(s)	:	Mr. Ajay Sharma Mr. Bhagat Singh Sharma
For Respondent(s)	:	Mr. Vijay Singh Yadav, PP

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

04/08/2026

1. Instant criminal misc. petition is filed by petitioner-accused Anoop Gautam to quash criminal case no. 52/2019 for offense under Sections 498A and 406 of IPC pending before learned Judicial Magistrate No. 4, Alwar arising out of FIR No. 362/2018 registered at Police Station Mahila Thana, Alwar, for offence under Sections 498-A and 406 IPC.
2. Learned counsel for petitioner while referring the divorce decree dated 10.11.2021 passed by the Family Court, Agra has submitted that the present petitioner who performed a marriage with non-applicant No. 2, , on 20.06.2014 has filed an application under Section 13 of



Hindu Marriage Act and Family Court has granted decree of divorce in favor of present petitioner. He further referred judgment in case of **Achin Gupta Vs. State of Haryana and Anr., reported in 2024 INSC 369**, and submitted that the allegations in FIR are vague, and no instance of criminal conduct are mentioned in the report, therefore, the FIR is liable for quashing. He also submitted that now parties are residing separately and non-applicant is also working at other place, and the criminal proceeding is just an abuse of process of law.

3. Aforesaid contentions were opposed by learned Public Prosecutor and he submitted report received from P.S. Mahila Thana, District Alwar.
4. None present for non-applicant No. 2 despite filing of Vakalatnama on behalf of non-applicant No. 2 after service of notice.
5. The marriage between present petitioner and non-applicant no. 2 were solemnized on 20.06.2014 at Alwar. The non-applicant no.2 has filed a criminal complaint before learned Judicial Magistrate no. 4, Alwar, which was sent to police for registration of FIR under Section 156(3) of Cr.P.C. and on basis of complaint, FIR no. 362 of 2018 dated 20.12.2018 was registered under Section 498-A and 406 IPC at PS Mahila Thana, District Alwar. A report is received from police indicate that after investigation, police has filed a charge sheet against present petitioner under Sections 498-A and 406 IPC on 08-05-2019.



6. The petitioner has filed a matrimonial case under Section 13 of Hindu Marriage Act in the Family Court, Agra, and learned Additional Principal Judge, Family Court no. 3 at Agra has allowed Matrimonial Case no. 2422/2018 on 10-11-2021 and passed a decree of divorce. The decree has been passed after filing of charge sheet in current case. Learned counsel for the petitioner has pointed out that after filing of a divorce petition and receipt of notice, current FIR has been lodged. We have considered the fact that the complaint has been filed on 10-12-2018 and FIR has been registered on 17-12-2018 whereas the divorce case has been filed in the month of November 2018.

7. In case of **Achin Gupta Vs. State of Haryana and Anr (supra)**, Hon'ble Supreme Court has considered quashing of proceeding primarily on the ground that the allegations in FIR are vague and no specific instances of criminal conduct are mentioned. The counsel has specifically highlighted following paragraphs from the judgment:

"The main thrust of the arguments raised by counsel for the petitioner is that the complainant had never been interested in living in the matrimonial home and she kept on pressurizing the petitioner for living separately from his family members. In order to achieve her objective she kept on causing harassment to the petitioner and his family members. However, a perusal of the allegations in the FIR would show that the petitioner and the family members gave taunting to the complainant for lowering down their image in the society. Demand of a car was also made.

Complainant was taunted for not having been incurred sufficient expenditure on





marriage by her parents. There are allegations of beating the complainant by her husband and the other family members. It has been specifically alleged that the petitioner is an alcoholic and has illicit relations with one Vandana Sharma.

The Hon'ble Supreme Court has settled the law time and again regarding exercising the jurisdiction under [Section 482](#) Cr.P.C. for quashing of FIR. A reference in this regard may be made to the law settled in case of [State of Haryana vs Bhajan Lal](#), 1992 Supp (1) SCC 335, wherein following parameters have been given:-

(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."

Further, Hon'ble Supreme Court in [Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra](#), 2021 SCC Online SC 315 has held that quashing of FIR is an exception rather than an ordinary rule and the High Court should exercise the powers under [Section 482](#) Cr.P.C. sparingly with circumspection. Taking into consideration the above facts and circumstances of the present case in the light of the law settled, the present case does not fall in the category of cases for invoking the inherent powers under [Section 482](#) Cr.P.C. The parameters [laid down by](#) the Hon'ble Supreme Court mandate that in a case where from the bare reading of the allegations in the FIR no cognizable offence is made out or it has been lodged to wreak the vengeance then the High Court may intervene. The veracity of the allegations levelled by the complainant can be assessed only after a thorough investigation and thereafter by the Trial Court on the basis of the evidence led before it.

24. This Court, in the case of [State of A.P. v. Vangaveeti Nagaiah](#), reported in (2009) 12 SCC 466 : AIR 2009 SC 2646,





interpreted clause (iii) referred to above,
observing thus: -

"6. In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process no doubt should not be an instrument of oppression, or, needless harassment Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the Section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death. The scope of exercise of power under Section 482 of the Code and the categories of cases where the High Court may exercise its power under it relating to cognizable offences to prevent abuse of process of any court or otherwise to secure the ends of justice were set out in some detail by this Court in State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335]. A note of caution was, however, added that the power should be exercised sparingly and that too in rarest of rare cases."

8. After concluding the investigation, police has already filed a charge sheet and present petitioner is on bail. After filing of the charge sheet, present petitioner has procured a decree of divorce from Agra (U.P.), though marriage between the parties has been solemnized at Alwar (Rajasthan). We have





gone through the content of FIR and also police report as referred by learned Public Prosecutor. No doubt about the fact that when the allegations are in FIR are vague and no specific instances of criminal conduct is mentioned, then there is no purpose to institute and continue a criminal proceeding.

9. In case of **Ankul Singh Vs. State of Uttar Pradesh 2025 INSC 1153**, Hon'ble Supreme Court while referring judgment in case of **Md. Allauddin Vs. State of Bihar and Ors., Criminal Appeal no. 675 of 2019**, has observed that at the stage of charge sheet, factual disputes and appreciation of evidence are beyond the scope of inquiry under Section 482 of Cr.P.C., and the veracity of allegations is a matter of trial.
10. In case of **CBI Vs. Aryan Singh reported in 2023 18 SCC 399**, Hon'ble Supreme Court has emphasized that under Section 482 of Cr.P.C. examination of the merits of the prosecution case and holding that the charge is not proved is beyond the jurisdiction, as it is a matter strictly for trial.
11. Having considered the entire material on record, I am of the considered view that the parties may have differences to live with each other, but when there is a matrimonial offense then a solution is provided under the law, and it includes registration of a criminal case. A criminal case cannot be quashed only on the ground that one of the spouse has obtained a decree of divorce and now they are living separately. The FIR contains several instances including allegation for demand of dowry and cruelty, therefore, the



veracity of the allegations are subject matter of trial and not subject matter to be considered for quashing under Section 482 of Cr.P.C.

12. In view of discussion made hereinabove, the petition filed under Section 482 of Cr.P.C. is hereby dismissed, with pending applications, if any.

13. Interim order is hereby vacated and stay application stands dismissed.

(ASHOK KUMAR JAIN),J

65/Chetna