

**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE SANJAY DWIVEDI**

**ON THE 24<sup>th</sup> OF JANUARY, 2023**

**MCRC No.42118 of 2022**

**BETWEEN:-**

**GAURAV SINGH CHADHAR S/O GULAB SINGH, AGED  
ABOUT 45 YEARS, OCCUPATION : ADRM BHOPAL,  
R/O BUNGALOW NO.V/507, RAIL VIHAR, OFFICERS  
COLONY, HABIBGANJ, BHOPAL (MP)**

**.....PETITIONER**

***(BY SMT. MANJIT P.S. CHUCKAL - ADVOCATE)***

**AND**

- 1. STATE OF MADHYA PRADESH THROUGH  
POLICE STATION GOVINDPURA,  
DISTRICT BHOPAL (MP)**
- 2. VICTIM X  
THROUGH POLICE STATION GOVINDPURA,  
DISTRICT BHOPAL (MP)**

**.....RESPONDENTS**

***(SHRI ALOK AGNIHOTRI – DEPUTY GOVERNMENT ADVOCATE FOR  
RESPONDENT NO.1/STATE)***

***(SHRI BHUPENDRA KUMAR SHUKLA – ADVOCATE FOR RESPONDENT  
NO.2)***

.....  
**Reserved on : 09.01.2023.**

**Pronounced on : 24.01.2023.**  
.....

*This petition having been heard and reserved for orders,  
coming on for pronouncement this day, the Court pronounced the  
following:*

**ORDER**

The petitioner has filed this petition under Section 482 of the Code of Criminal Procedure for quashing of FIR dated 07.05.2022 (Annexure-A/1) registered vide Crime No.244/2022 at Police Station Govindpura, District Bhopal for the offence punishable under Sections 376(2)(n) and 506 of the Indian Penal Code against him.

**2.** The quashing of FIR is being claimed mainly on the ground that the petitioner has been falsely implicated in the alleged offence on a complaint made by the complainant/respondent No.2.

**3.** As per the petitioner, if the allegations made against him are considered to be true at their face value even though the alleged offence is not made out against him. According to the petitioner, the complainant on a pressure created by her husband made a complaint to the police alleging false allegation just to implicate him whereas the petitioner and the complainant are known to each other since long and immediately before lodging the report, the complainant during course of recording her statement before the police has not alleged anything against the petitioner and on the contrary she has accepted that there was no such relationship between them so as to constitute offence of 376 of IPC. As per the petitioner, it is a malicious prosecution which deserves to be dismissed.

**4.** To reach a conclusion as to whether the FIR can be quashed in the existing circumstance, it is proper to mention relevant facts of the case which in a nutshell are as under:-

**(4.1)** That on 07.05.2022, an FIR got registered by complainant/respondent No.2 vide Crime No.244/2022 under Sections 376(2)(n) and 506 of IPC against the petitioner narrating the incident

took place between 21.03.2021 and 04.05.2022. The father of the complainant/respondent No.2 working in the Railway Department died on 26.02.2019 and on an application made by the complainant/respondent No.2 to get compassionate appointment in place of her father, on 06.04.2021 she was appointed as a Senior Clerk in the Railway Department on compassionate basis. From May 2021 she started residing in a flat at Sagar Eden Garden Phase-2. On 10.02.2022, she was transferred from Bhopal to Harda at her own request. On 18.02.2022, the complainant/respondent No.2 got married to one Shubham Rajput who was the resident of Harda. On 08.04.2022, she applied for transfer from Harda to Bhopal at her own request. On 12.04.2022, she joined at Bhopal. From 13.04.2022 to 27.04.2022, the complainant/respondent No.2 was on leave from duty as she was in Harda due to her matrimonial problems. On 13.04.2022, the complainant/respondent No.2 issued a legal notice to her husband Shubham Rajput for appearing before the District Court Bhopal as she was filing a case of divorce by mutual consent on the pretext that her life is in danger with her husband. On 21.04.2022, she made a complaint to the police at Police Station Kotwali, Harda alleging harassment against her husband. On 28.04.2022, the husband of the complainant/respondent No.2 also made a complaint before the Superintendent of Police Harda against the complainant/respondent No.2 and also against the present petitioner alleging forgery of Rs.15,00,000/- and jewelry and also alleged conspiracy of the petitioner and the complainant against the husband of the complainant. On 05.05.2022, the statement of the complainant recorded by the SHO, Mahila Thana, Harda in pursuance to the complaint dated 28.04.2022 of Shubham Rajput. On 06.05.2022, the complainant tired to commit

suicide by cutting her wrist at Piparia Hoshangabad due to her matrimonial discord and harassment by her husband. On 06.05.2022, Rojnamcha was obtained under Right to Information Act containing the incident of committing suicide by the complainant cutting her wrist. On 06.05.2022, the Additional S.P. Narmadapuram vide communication No.4/22 asked the Administrator One Stop Centre Narmadapuram to call the complainant for counseling as she had tried to commit suicide after fighting with her husband so as to console her and to settle her down to proceed further in the life. Then on 07.05.2022, the matrimonial discord between the complainant and her husband culminated into allegation of rape against the petitioner which according to the petitioner is totally false with an avowed intention to harass the petitioner which is nothing but a preemptive move by the complainant to humiliate the petitioner which is a clear abuse of process of law.

**(4.2)** As per the petitioner, on the face of complaint corroborated with the accompanying documents received under RTI Act, no offence is constituted and the FIR is, therefore, malicious. As per the petitioner, the intention of the complainant is to harass the petitioner by lodging a report against him and using same as a weapon against him. As per the petitioner, the FIR patently frivolous and vexatious as the sequel of incidents as mentioned clearly proves that no offence is constituted and as such, criminal prosecution cannot be continued only to harass the petitioner and the FIR, therefore, deserves to be quashed.

**(4.3)** According to the petitioner, the complaints dated 13.04.2022, 27.04.2022, 28.04.2022, statement of the complainant recorded 05.05.2022 and Rojnamcha dated 06.05.2022 clearly reveal that it is a case of matrimonial discord and within a few hours the

complainant has taken a u-turn alleging against the petitioner saying that she has been raped by him. This false allegation is only to harass the petitioner and a clear sign of malicious prosecution and the same is therefore, sought to be quashed.

5. Learned counsel for the petitioner has placed reliance upon the decisions of Supreme Court reported in **(1977) 1 SCC 505 (Dr. Sharda Prasad Sinha Vs. State of Bihar)**, **(1977) 2 SCC 699 (State of Karnataka Vs. L. Muniswamy and others)**, **(1983) 1 SCC 1 (Municipal Corporation of Delhi Vs. Ram Kishan Rohtagi and others)**, **(1988) 1 SCC 692 (Madhavrao Jiwajirao Scindia and others Vs. Sambhajirao Chandrojirao Angre and others)**, **1992 Supp (1) SCC 335 (State of Haryana and others Vs. Bhajan Lal and others)**, **(2007) 12 SCC 1 (Inder Mohan Goswami and another Vs. State of Uttaranchal and others)**, **(2011) 7 SCC 59 (Joseph Salvaraj A Vs. State of Gujrat and others)**, **(2013) 11 SCC 673 (Paramjeet Batra Vs. State of Uttarakhand and Ors.)**, **(2021) 5 SCC 524 (Kapil Agarwal and others Vs. Sanjay Sharma And others)** and **2022 LiveLaw (SC) 721 (Wyeth Limited & Ors. Vs. State of Bihar & Anr.)** and submitted that in view of the law laid down by the Supreme Court in these cases, FIR can be quashed.

6. *Per contra*, Shri Agnihotri, learned counsel appearing for the State has submitted that in view of the allegation made against the petitioner and the photographs annexed in the petition itself it is clear that the petitioner and the complainant were in some relationship and it is not a case in which both are unknown to each other. It is also submitted by the counsel for the State that from the allegation made against the petitioner it is clear that he being the higher officer exploited

the complainant and on his pressure she surrendered before him and as such, without her consent, the petitioner developed physical relation which falls within the definition of rape, therefore, the offence of 376 of IPC has rightly been registered against the petitioner.

7. Shri Shukla, learned counsel appearing for the complainant/respondent No.2 has supported the submission made by the counsel for State and submitted that it is not a case in which FIR can be quashed only because the complainant is holding higher post and exploited the petitioner who is subordinate to her. He submitted that the allegation made against the petitioner is sufficient to constitute the offence registered against the petitioner and other aspects according to the counsel for complainant/respondent No.2 cannot be considered to be true at this juncture because that would be the part of evidence and will be determined during the course of evidence in the trial. The petition according to him is misconceived and deserves to be dismissed. In support of his submission, the counsel for the complainant/respondent No.2 has placed reliance upon a judgment of the Supreme Court passed in **SLP (CRL.) No.2953 of 2022** parties being **Ramveer Upadhyay & Anr. Vs. State of U.P. & Anr.**

8. Learned counsel for the petitioner during the course of arguments has given much stress upon the fact that on 05.05.2022 the complainant's statement has been recorded in which several questions have been asked about her relationship with the petitioner, but she has not alleged anything against him and on the contrary she has apprised the police that her husband is unnecessarily harassing and terrorizing her and also he was in the habit of making allegation even against the petitioner. The complainant/respondent No.2 has very categorically

denied about any relationship between her and the petitioner. Although, she has stated that the petitioner is her boss and except official relationship, nothing more is between them. She has also emphasized that a complaint was made by her husband to the Superintendent of Police, Harda on 28.04.2022 in which her husband made several allegations against his wife i.e. the present complainant/respondent No.2 and also made allegation that the complainant and the petitioner have illicit relation. After recording the statement on 05.05.2022, the complainant/respondent No.2 tried to commit suicide on 06.05.2022 at Piparia Hoshangabad by cutting her wrist. Even on the said date i.e. 06.05.2022 when she tried to commit suicide due to misbehavior and ill-treatment given by her husband, in an enquiry made by police she has not alleged anything against the petitioner. Rojnamcha Sanha dated 06.05.2022 is also available in the charge-sheet.

Learned counsel for the petitioner has further submitted that the complainant/respondent No.2 was an educated lady and was not happy with her husband as he was ill-treating her being a criminal mentality having past criminal records and terrorizing the complainant/respondent No.2 as she has clarified in her statement recorded on 05.05.2022. But all of a sudden, on 07.05.2022 as to what had happened to lodge an FIR which is impugned in this petition taking somersault alleging against the petitioner that too about the incident took place between 21.03.2021 and 04.05.2022. In the FIR, it is stated that on 04.05.2022 when the complainant/respondent No.2 was staying in a railway retiring room, the petitioner came to that room and developed physical relation but when on 05.05.2022 her statement has been recorded before the police, she neither disclosed that incident nor made any allegation against the petitioner but on the contrary despite putting specific question with

regard to relationship between them, she denied any physical relation or any other type of relationship with the petitioner. It according to the petitioner clearly indicates that a false complaint made by the complainant/respondent No.2 just to harass the petitioner that too at the instance of her husband because he was not only harassing the complainant/respondent No.2 but also annoyed with her as he was suspecting the relationship of the petitioner and complainant/respondent No.2.

**9.** In a case of **Dr. Sharda Prasad Sinha** (supra), the Supreme Court has observed that where the allegations set out in the complaint or charge-sheet do not constitute any offence, the High Court exercising its inherent jurisdiction provided under Section 482 of Cr.P.C. can quash the order passed by a Magistrate taking cognizance of the offence.

**10.** Further, in case of **L. Muniswamy and others** (supra), the Supreme Court has observed that if upon consideration of record of the case and documents submitted therewith and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused and record his reason for so doing. It is also observed by the Supreme Court that nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. As per the Supreme Court, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of Court or that the ends of justice requires that the



proceeding ought to be quashed.

11. Likewise in a case of **Ram Kishan Rohtagi and others** (supra), the Supreme Court has observed as under:-

“8. Another important consideration which is to be kept in mind is as to when the High Court acting under the provisions of Section 482 should exercise the inherent power insofar as quashing of criminal proceedings are concerned. This matter was gone into in greater detail in *Smt. Nagawwa v. Veeranna Shivalingappa Konjalgi* [(1976) 3 SCC 736 : 1976 SCC (Cri) 507 : 1976 Supp SCR 123 : 1976 Cri LJ 1533] where the scope of Sections 202 and 204 of the present Code was considered and while laying down the guidelines and the grounds on which proceedings could be quashed this Court observed as follows: [SCC para 5, p. 741 : SCC (Cri) pp. 511-12]

“Thus it may be safely held that in the following cases an order of the Magistrate issuing process against the accused can be quashed or set aside:

- (1) where the allegations made in the complaint or the statements of the witnesses recorded in support of the same taken at their face value make out absolutely no case against the accused or the complaint does not disclose the essential ingredients of an offence which is alleged against the accused;
- (2) where the allegations made in the complaint are patently absurd and inherently improbable so that no prudent person can ever reach a conclusion that there is sufficient ground for proceeding against the accused;
- (3) where the discretion exercised by the Magistrate in issuing process is capricious and arbitrary having been based either on no evidence or on materials which are wholly irrelevant or inadmissible; and
- (4) where the complaint suffers from fundamental legal defects, such as, want of sanction, or absence of a complaint by legally competent authority and the like.

The cases mentioned by us are purely illustrative and provide sufficient guidelines to indicate contingencies

where the High Court can quash proceedings.”

**12.** Further, in a case of **Madhavrao Jiwajirao Scindia and others** (supra), the Supreme Court has observed as under :-

“7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage.”

**13.** Similarly, in a case of **Bhajan Lal and others** (supra), the Supreme Court has observed as under:-

“**102** (5) Where the allegations made in the FIR 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.

\* \* \* \* \*

**102** (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.”

**14.** In a case of **Inder Mohan Goswami and another** (supra), the Supreme Court dealing with the inherent power of the High Court provided under Sections 482 of Cr.P.C., has observed as under:-

*“Scope and ambit of courts' powers under Section 482 CrPC*

**23.** This Court in a number of cases has laid down the scope

and ambit of courts' powers under Section 482 CrPC. Every High Court has inherent power to act *ex debito justitiae* to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court. Inherent power under Section 482 CrPC can be exercised:

- (i) to give effect to an order under the Code;
- (ii) to prevent abuse of the process of court, and
- (iii) to otherwise secure the ends of justice.

**24.** Inherent powers under Section 482 CrPC though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the statute.

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**28.** This Court in *State of Karnataka v. L. Muniswamy* [(1977) 2 SCC 699 : 1977 SCC (Cri) 404] observed that the wholesome power under Section 482 CrPC entitles the High Court to quash a proceeding when it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The High Courts have been invested with inherent powers, both in civil and criminal matters, to achieve a salutary public purpose. A court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. The Court observed in this case that ends of justice are higher than the ends of mere law though justice must be administered according to laws made by the legislature. This case has been followed in a large number of subsequent cases of this Court and other courts.

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**31.** This Court in *Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre* [(1988) 1 SCC 692 : 1988 SCC (Cri) 234] observed in para 7 as under : (SCC p. 695)

“7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made *prima facie* establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to

consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage.”

**32.** In *State of Haryana v. Bhajan Lal* [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] this Court in the backdrop of interpretation of various relevant provisions of CrPC under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 of the Constitution of India or the inherent powers under Section 482 CrPC gave the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of the court or otherwise to secure the ends of justice. Thus, this Court made it clear that it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list to myriad kinds of cases wherein such power should be exercised : (SCC pp. 378-79, para 102)

“102. (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 in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR 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 Section 155(2) of the Code.

(5) Where the allegations made in the FIR 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 Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(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.”

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**46.** The court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurise the accused. On analysis of the aforementioned cases, we are of the opinion that it is neither possible nor desirable to lay down an inflexible rule that would govern the exercise of inherent jurisdiction. Inherent jurisdiction of the High Courts under Section 482 CrPC though wide has to be exercised sparingly, carefully and with caution and only when it is justified by the tests specifically laid down in the statute itself and in the aforementioned cases. In view of the settled legal position, the impugned judgment cannot be sustained.

**15.** Also in a case of **Joseph Salvaraj A.** (supra), the Supreme Court dealt with the inherent power of the High Court provided under Section 482 of Cr.P.C. has held as under:-

“**10.** The allegations in the FIR clearly disclose a civil dispute between the parties and the FIR seems to have been filed only with an intention to harass and humiliate the appellant. This was a pre-emptive move by the complainant.

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**20.** Thus, looking to the matter from all angles, we are of the considered opinion that the prosecution of the appellant for commission of the alleged offences would be clear abuse of the

process of law. The FIR under the circumstances deserves to be quashed at the threshold. We accordingly do so. The appeal is, therefore, allowed. The order of the learned Single Judge is set aside. The FIR dated 5-9-2006 lodged by Respondent 4 complainant with Odhav Police Station, Ahmedabad stands quashed and all criminal proceedings emanating therefrom also stand quashed.”

**16.** Likewise, in a case of **Paramjeet Batra** (supra), the Supreme Court dealing with the power provided under Section 482 of Cr.P.C. to the High Court has observed as under:-

“7. It is necessary to note here that office report dated 22-8-2012 indicates that the contesting respondent i.e. Respondent 2 was directed to be served through the Resident Commissioner vide Registrar's order dated 5-12-2011. He has accordingly been served. He has, however, neither cared to appear in person nor has he engaged any counsel. We, therefore, proceed to deal with the submissions of the counsel for the appellant.”

**17.** In a case of **Kapil Agarwal and others** (supra), the Supreme Court dealt with the power provided under Section 482 of Cr.P.C. to the High Court has observed as under:-

“18. However, at the same time, if it is found that the subsequent FIR is an abuse of process of law and/or the same has been lodged only to harass the accused, the same can be quashed in exercise of powers under Article 226 of the Constitution or in exercise of powers under Section 482 Cr.P.C. In that case, the complaint case will proceed further in accordance with the provisions of the Cr.P.C.”

**18.** Further, in a case of **Wyeth Limited & Ors.** (supra), the Supreme Court has observed as under:-

“14. A careful reading of the complaint, the gist of which we have extracted above would show that none of the ingredients of any of the offences complained against the appellants are made out. Even if all the averments contained in the complaint are taken to be true, they do not make out any of the offences alleged against the appellants. Therefore, we do not know how an FIR was registered and a charge-sheet was also filed.

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18. It is too late in the day to seek support from any precedents, for the proposition that if no offence is made out by a careful reading of the complaint, the complaint deserves to be quashed.”

19. In view of the law on which the petitioner has placed reliance and the view taken by the Supreme Court in the aforesaid cases, it is clear that even at initial stage the High Court exercising its inherent jurisdiction provided under Section 482 of Cr.P.C. can quash the FIR. The Supreme Court has observed repeatedly that nothing in this Code shall be deemed to be limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to prevent abuse of the process of any Court or otherwise to secure the ends of justice. The High Court is also entitled to quash a proceeding if it comes to the conclusion that allowing such proceeding to continue would be an abuse of process of Court.

20. The Supreme Court has also observed that while exercising powers provided under Section 482 of Cr.P.C. it is the duty of the Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. The guidelines laid down by the Supreme Court in a case of **Bhajan Lal and others** (supra) and the categories in which FIR can also be quashed in a petition preferred under Article 226 of the Constitution of India or in exercise of inherent power of the High Court provided under Section 482 of Cr.P.C. It is clear that if High Court comes to a conclusion where the allegations made in the FIR

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. The said judgment further provides that where a criminal proceeding is manifestly attended with *mala fide* and/or where the proceedings 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, the power can be exercised and FIR can be quashed.

**21.** As per the discussion made hereinabove, it is clear that the complainant/respondent No.2 in her complaint narrated the incident of 21.03.2021 and also of 06.04.2021 and that was continued according to the complainant and lastly on 04.05.2022. But, in a statement recorded by the police of the complainant/respondent No.2 on 05.05.2022 that too on a complaint made by her husband to the police against her in which he has also suspected relationship between the complainant and the petitioner even after putting specific questions by the police to the complainant/respondent No.2 which were as under:-

“प्र.6. आपने इस दौरान डीआरएम आफिस में नियुक्ति के संबंध में किसी आफिसर/एडीआरएम श्री गौरवसिंह सर से मुलाकात/बातचीत की थी क्या ?

उत्तर— स्टेनोग्राफर के पेपर देने व फेल होने के बाद तात्कालीन ए.पी.ओ. सर से, सीनियर डीपोओ सर से, एडीआरएम श्री गौरवसिंह सर से तथा तात्कालीन डीआरएम सर से मुलाकात की थी तथा मैंने उन सभी से नियुक्ति के संबंध में आगे की प्रक्रिया के बारे में चर्चा की थी तब सभी अधिकारियों ने कहा था कि फाईल देखकर बताते हैं मुलाकात के समय मेरी माँ श्रीमती सीमा सोनेर साथ में थी।

प्र.10. आपने शुभमसिंह को एडीआरएम सर श्री गौरवसिंह से कब व कितने बार मिलाया था कहा मिलाया था ?

उत्तर— मैंने शुभमसिंह को एडीआरएम श्री गौरवसिंह सर से कभी नहीं मिलाया न ही एडीआरएम सर शुभमसिंह से कभी मिले हैं।

प्र.11. आपको व शुभमसिंह को एडीआरएम श्री गौरवसिंह सर ने शादी करने की सलाह दी थी या नहीं ?



उत्तर— एडीआरएम सर ने मुझे व शुभमसिंह को कभी भी शादी करने की सलाह नहीं दिये वे मेरे बोस है मैं उनसे इस बारे में बात नहीं कर सकती चूंकि उनका और मेरा रिलेशन सिर्फ आफिस तक है पारिवारिक नहीं है। यदि शुभमसिंह ने ऐसा कोई आरोप लगाया है तो वह निराधार व झूठा है वह सिर्फ स्वयं की व उसके परिवार की गलतियों को छुपाने के लिये अनर्गल आरोप मुझे पर व एडीआरएम सर पर लगा रहा है।

प्र.12. आपने आपकी शादी में एडीआरएम सर श्री गौरवसिंह को आमंत्रित किया था या नहीं ?

उत्तर— मैंने आफिसिल मेरे स्टाफ के साथ सभी अधिकारियों को शादी में आमंत्रित किया था व्यक्तिगत रूप से मैंने एडीआरएम सर श्री गौरवसिंह को आमंत्रित नहीं किया न ही वे मेरी सगाई व शादी में उपस्थित हुये।

प्र.25. आप अपने पति के साथ दिनांक 18/4/22 से 24/4/2022 तक कहां रहे इस बीच आपकी एडीआरएम सर गौरवसिंह से कितने बार मोबाईल फोन पर किस नम्बर से क्या चर्चा हुई विस्तार से बताये ?

उत्तर – दिनांक 18/4/22 को इंदौर होटल में रुके तब भी मेरे पति का व्यवहार नहीं बदला तब भी मेरे पति मेरे ऊपर आरोप प्रत्यारोप लगाते हुये चरित्र के बारे में उल्टा सीधा बोल रहे थे तथा गाली गलौच कर रहे थे सके बाद दिनांक 19/4/22 को खाटूश्यामजी के लिये निकले पूरी रात गाडी में ही थे तब भी बदतमीजी करते रहे मेरे साथ उसके बाद वहां से जयपुर आये जयपुर में भी मेरे पति का वही व्यवहार रहा इस दौरान मेरे पति काफी ड्रिंक करी हुई थी और कोई सूखा नशा भी किया हुआ था जयपुर में किसी होटल में नहीं रुके फिर चित्तौगड़ आये फोट गये घूमे सके बाद दिनांक 23/4/22 को हरदा वापस आये इस दौरान मेरी गौरवसिंह सर से किसी भी मोबाईल नम्बर से किसी भी तरह की बातचीत नहीं हुई है तथा इसके अलावा मेरे पति ने मुझे अन्य किसी व्यक्ति से भी बातचीत नहीं करने दिया घर आने के बाद भी व्यवहार नहीं बदला जब तक किसी भी नशे में नहीं होते थे तब तक ठीक से बात करते थे जब नशे में हो जाते थे तो मेरे से अपशब्दों से बात करते थे तथा पूरे समय दुर्व्यवहार किया करते थे। मेरी दिनांक 23/4/22 को शाम करीब 6-7 बजे के आसपास मैंने गौरवसिंह सर को फोन लगाकर बताया था मैं दिनांक 13/4/22 से ड्यूटी नहीं गई हूँ तथा वर्तमान में मैं हरदा में हूँ मुझ पर कोई कार्यवाही तो नहीं होगी मैं ड्यूटी ज्वाइन करू तो कोई प्रॉब्लम तो नहीं होगी तो सर ने कहा कि आप आ जाये अपने सीनियर डीएसटी सर से बात कर ले मैं इस सम्बन्ध में कुछ नहीं बता सकता इसके अलावा कोई बात नहीं हुई।

प्रश्न. 27. क्या आप एडीआरएम सर श्री गौरवसिंह से आफिस टाईम/आफिस टाईम के बाद मिलती जुलती रहती हो या नहीं ?

उत्तर – नहीं ।

प्र. 28. एडीआरएम सर गौरव सिंह ने क्या आपके नौकरी लगवाने में कोई हेल्प की है ?

उत्तर— मेरी अनुकम्पा नियुक्ती की है मेरी हेल्प गौरवसिंह सर ने कोई हेल्प नहीं की है।

प्र. 29. एडीआरएम सर गौरव सिंह आपकी शादी के बाद भी आपसे लगातार संपर्क में मोबाईल फोन/अन्य माध्यम से संपर्क में किस कारण से रहे हैं ?

उत्तर – मोबाइल फोन के माध्यम से संपर्क में रहे हैं शादी के बाद गृहस्थ जीवन में आ रहे परेशानी के कारण एडीआरएम सर मेरे संपर्क में रहे हैं मेरे से संपर्क मेरी ट्रांसफर के संबंध में बातचीत करने के लिये हुआ था इससे पहले जितनी भी बात एडीआरएम सर से मेरी हुई है आफिस संबंधी काम के लिये की गई थी ।

प्र.30. आपने अपने पति को यह बात बताया था कि आपके माता पिता के देहांत उपरांत एडीआरएम सर श्री गौरवसिंह सर ने आपके लिये केयर टेकर का काम किया था तथा उन्होंने आपकी नौकरी लगवायी उनके आपके उपर कई सारे एहसान हैं ?

उत्तर— ऐसा मैंने अपने पति से कभी भी कुछ नहीं कहा उन्होंने झूठा आरोप लगाया है मैंने सिर्फ इतना बताया था कि सर मेरे आफिस में मेरे गार्ड की तरह है।

प्र.31. आप कभी एडीआरएम सर गौरवसिंह के साथ उनके घर गई है या नहीं कभी उनके परिवार से मिली है नहीं ?

उत्तर – नहीं गई मेरे फेमिली टर्मस नहीं है।

प्र.33. आपने एवं एडीआरएम सर श्री गौरवसिंह ने मिलकर आवेदक शुभमसिंह को अपनी जाल में फंसाकर धोखाधड़ी कर आपने उससे शादी की तथा आप दोनों ने मिलकर आवेदक के

नगदी रूपये व सोनाचांदी के जेवरात हड़प लिये है ?

उत्तर – यह आरोप पूरी तरह झूठ है यदि मुझे शुभमसिंह से धोखाधड़ी कर शादी करना होता तो मैं अपनी माँ के सम्पूर्ण सोने के जेवरात एवं अन्य सामान लेकर शुभमसिंह के घर क्यों जाती तथा शादी के पहले हरदा स्थानान्तरण क्यों कराती शुभमसिंह सिर्फ मुझ पर इसलिये आरोप लगा रहा है कि मैं अनाथ हूँ शासकीय नौकरी करती हू तो उसके आरोपो के दबाव में आकर उससे अपनी जिन्दगी का समझौता करू तथा वह मेरे साथ जैसा चाहे वैसा व्यवहार करता रहे और मैं चुपचाप सहन करती रहूँ। एडीआरएम सर कभी कभार आवश्यकता पड़ने पर मेरी हेल्प कर देते है यह बात मेरे पति को पता है इसीलिये एडीआरएम सर के उपर भी झूठे आरोप लगा रहा है ताकि सर भी दबाव में आ जाये तथा मेरे बोस होने के नाते मुझे समझौता कराने पर मजबूर कर सके मेरा पति शुभमसिंह अपराधिक प्रवृत्ति का व्यक्ति है यह बात उसने स्वयं ने मेरे सामने कहा है वह इस प्रकार के कृत्य करने में माहिर है तथा वह जानता है कि सरकारी नौकरी वाले व्यक्ति किस बात से दबाव में आयेगें मैं पूरी तरह बालिक हूँ सरकारी नौकरी कर रही हूँ रेलवे में हेड क्लर्क हूँ मैंने शुभमसिंह से अलग होने का निर्णय सोच समझ कर लिया हूँ क्योंकि मैं किसी भी व्यक्ति की किसी तरह की प्रताड़ना नहीं कर सकती मैं फिर कह रही हूँ कि मेरे पति द्वारा जो भी आरोप मेरे उपर व एडीआरएम सर पर लगाये गये है मनगढ़ंत व बेबुनियाद है। मैं शुभम के साथ नहीं रहना चाहती हूँ मैंने यह बयान पूर्ण होश हवाश में सोच समझकर जो सही है वही लिखवाया है पढ़कर देखा सही होने से हस्ताक्षर करती हूँ।”

and even on 06.05.2022 when the complainant/respondent No.2 tried to commit suicide by cutting her wrist and in the Rojnamcha Sanha the said incident was recorded in which also she has informed the police that she would lodge complaint against her husband but on the very next day i.e. on 07.05.2022 she made a complaint to the police against the petitioner alleging allegation of rape. There is no explanation and disclosure of the complainant/respondent No.2 as to what had happened within 48 hours with her which compelled her to change her statement because on 05.05.2022 before the police she denied relationship with the petitioner that too on a specific question even raised by the police. It is, therefore, now clear that the complainant/respondent No.2 without any probable cause initiated criminal proceeding against the petitioner. The over all conduct of the complainant/respondent No.2 appears to be suspicious because a day before lodging the FIR she has repeatedly denied her relationship with the petitioner and on the contrary shown great

respect towards him.

22. Although, the counsel appearing for the complainant/respondent No.2 has placed reliance in a case of **Ramveer Upadhyay & Anr.** (supra), especially the observation made in paragraph-30 of the said judgment, which reads as under:-

“30. The fact that the complaint may have been initiated by reason of political vendetta is not in itself ground for quashing the criminal proceedings, as observed by Bhagwati, CJ in ***Sheonandan Paswan v. State of Bihar and Others (1987) 1 SCC 288***. It is well established proposition of law that a criminal prosecution, if otherwise justified and based upon adequate evidence, does not become vitiated on account of mala fides or political vendetta of the first informant or complainant. Though the view of Bhagwati, CJ in ***Sheonandan Paswan*** (supra) was the minority view, there was no difference of opinion with regard to this finding. To quote Krishna Iyer, J., in ***State of Punjab v. Gurdial Singh (1980) 2 SCC 471***, “if the use of power is of fulfillment of a legitimate object the actuation or catalysation by malice is not legicidal.”

The Supreme Court in this case has observed that the criminal proceeding if otherwise justified and based upon adequate evidence, the same does not vitiate on account of *mala fide* or otherwise vendetta, but the case in hand is not of that nature.

23. Indubitably, the petitioner is a higher rank officer of the railway department in which the complainant/respondent No.2 is also performing duties. The complainant/respondent No.2 has very open hearted accepted and apprised the police that the petitioner has never misused his power and relationship between them is as a master and servant and showing full regard and respect towards the petitioner, however, on the next day she changed her version. Not only this, but even after a long time she did not apprise anybody

about the alleged incident which according to her took place somewhere in the month of March, 2021 and was continued up-to 04.05.2022. Except her statement, there is no material available on record indicating that the petitioner at any point of time tried to harass the complainant/respondent No.2 and committed alleged crime with her. It is also not in dispute that the complainant/respondent No.2 and her husband were fighting against each other and the complainant herself levelled serious allegations against her husband saying that he was a person of criminal mentality, misbehaving with her and with the ill-treatment given by him the complainant tried to commit suicide, then it can be gathered that for some reason best known to the complainant, she has made false allegation against the petitioner and that might be under the pressure of her husband because her husband in his complaint shown suspicion about the relationship between the petitioner and the complainant/respondent No.2.

**24.** The Supreme Court has also observed in number of occasions that if criminal proceeding manifestly attended with *mala fide* and instituted maliciously with an ulterior motive for wreaking vengeance and with a view to spite someone due to private and personal grudge then the same can be quashed and cannot be permitted to continue.

**25.** Even during the course of arguments the counsel for respondent No.1/State and even the counsel for complainant/respondent No.2 failed to demonstrate and satisfy the Court for not explaining and disclosing the alleged incident before

the police even when the statement of the complainant was being recorded just before one day of lodging the FIR in a complaint made by her husband against her. Thus, this Court has no hesitation to hold that the allegation made by the complainant/respondent No.2 against the petitioner in the FIR and initiating criminal proceeding against him is nothing but an abuse of the process of law and to secure the ends of justice relying upon the view as has been expressed by the Supreme Court and quoted hereinabove, this is a fit case in which this Court can exercise inherent power provided under Section 482 of Cr.P.C. for quashing the FIR which is impugned in this petition whereby the offence vide Crime No.244/2022 has been registered against the petitioner at Police Station Govindpura, District Bhopal because the same is a malicious prosecution and if said proceeding is allowed to continue that would defeat the very purpose of exercising inherent power provided under Section 482 of Cr.P.C.

**26.** The petition is accordingly **allowed**. The FIR registered against the petitioner by the complainant/respondent No.2 at Police Station Govindpura, District Bhopal vide Crime No.244/2022 for the offence punishable under Sections 376(2)(n) and 506 of IPC is hereby quashed.

**27.** Needless to say that all subsequent proceedings initiated pursuant to said FIR will automatically come to an end and accordingly, set aside.

**(SANJAY DWIVEDI)**  
**JUDGE**

ac/-