



2026:AHC:211280-DB

Reserved on 15.09.2026

Delivered on 08.10.2026

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 15316 of 2025

Gaurav Jain and 2 others

.....Petitioner(s)

Versus

State of U.P. and 3 others

.....Respondent(s)

Counsel for Petitioner(s)	: Rajrshi Gupta, Swetashwa Agarwal, Syed Imran Ibrahim, Yash Raj Verma
Counsel for Respondent(s)	: Jagdish Singh Bundela, G.A., Gaurav Srivastav, Prem Babu Verma

Along With

CRIMINAL MISC. WRIT PETITION No. - 15360 of 2025

Reena Jain and another

.....Petitioner(s)

Versus

State of U.P. and 3 others

.....Respondent(s)

Counsel for Petitioner(s)	: Swetashwa Agarwal, Yash Raj Verma
Counsel for Respondent(s)	: Jagdish Singh Bundela, Anita Singh, G.A., Prem Babu Verma

Court No. - 48**HON'BLE CHANDRA DHARI SINGH, J.****HON'BLE TARUN SAXENA, J.****Per: Hon'ble Chandra Dhari Singh,J.**

1. The instant writ petitions have been filed under Article 226 of the Constitution of India seeking quashing of First Information Report/Case Crime No. 0227 of 2025 dated 30.06.2025 registered at Police Station Hari Parvat, District Commissionerate Agra, under Sections 115(2), 352 and 85 of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as the 'BNS') and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. Since both the afore-captioned writ petitions arise out of the same Case Crime Number and involve common questions of fact and law, the same have been heard together and are being decided by this common judgment. For the purpose of the present judgment, the brief facts, as noticed hereinbelow, are those of Writ Petition No. 15316 of 2025, preferred by Gaurav Jain and 2 others.

Factual Matrix

3. The factual matrix, as emerging from the FIR and the pleadings placed before this Court is as follows. The marriage between petitioner No.1 and respondent No. 4 was solemnized on 12.11.2024 in accordance with Hindu rites and ceremonies. According to the FIR, the marriage was attended by members of both families and considerable expenditure was incurred by the family of respondent No. 4. The FIR states that approximately Rs.4 crores were spent in connection with the marriage and that

substantial articles, jewellery and *stridhan* were given to the matrimonial family.

4. The case of the informant, respondent No.3, is that soon after the marriage, the petitioners and other members of the matrimonial family began to express dissatisfaction with the articles and dowry given at the time of marriage. It is alleged that the petitioners started making taunts concerning the financial status of the informant's family and began making demands for additional money. The FIR specifically mentions an alleged demand of Rs.10 crores and a further demand of Rs.50 lakhs made on 07.12.2024.

5. The FIR further alleges that the conduct of the matrimonial family did not remain confined to verbal taunts. It contains allegations concerning repeated harassment, abuse, denial of food, threats of expulsion from the matrimonial home, comments concerning the character and physical appearance of respondent No.4, demand of her salary and non-return or retention of her *stridhan*. The informant alleges that respondent No. 4 was subjected to physical assault and that on one occasion an attempt was made to strangle her with the intention of causing her death. It is stated that respondent No. 4 suffered severe mental trauma, temporarily lost her voice and was thereafter taken for medical treatment.

6. The FIR contains a further allegation concerning 24.06.2025. It is alleged that, after respondent No.4 had been living separately for several months, petitioner No.1 telephoned the mother of respondent No. 4 and abused and threatened her, allegedly stating that he would teach the family a lesson, destroy them and cause their death and that respondent No.4 would not be left alive. The informant explains that despite the alleged incident of 03.02.2025,

he did not immediately approach the police because he did not wish to disturb his daughter's matrimonial life and continued to hope for reconciliation. According to the FIR, the situation became more serious after the alleged telephone threat of 24.06.2025, when the mental condition of respondent No. 4 allegedly deteriorated and she attempted suicide. The FIR was thereafter lodged on 30.06.2025.

7. The petitioners dispute the allegations in their entirety. Their principal case is that respondent No.4 remained in the matrimonial home for only about two and a half months and voluntarily left on 03.02.2025. It is stated that no complaint was made between 03.02.2025 and 30.06.2025. It is further pleaded that petitioner No.1 instituted a petition for dissolution of marriage under Section 13(1)(ia) of the Hindu Marriage Act, 1955 before the Principal Judge, Family Court, North-West, Rohini Courts, Delhi, registered as HMA Petition No.1232 of 2025, on 03.05.2025. According to the petitioners, the FIR dated 30.06.2025 was lodged only after respondent No.4 became aware of the divorce proceedings and is therefore a counterblast to the matrimonial litigation.

8. The petitioners further rely upon medical documents concerning treatment of respondent No.4 at Sir Ganga Ram Hospital on 30.12.2024 and at Medanta Hospital on 24.01.2025. Their contention is that the medical records do not record an external injury corresponding to the subsequent allegation of strangulation. The petitioners also point out an alleged inconsistency between the FIR and the counter-affidavit regarding the sequence of the alleged assault and the persons who took respondent No.4 to the hospital. The petitioners contend that these circumstances demonstrate that the allegations concerning assault and strangulation are subsequent fabrications.

9. The petitioners have also relied upon the contents of the divorce petition filed by petitioner No.1 and contend that the allegations therein, read with the subsequent FIR, demonstrate that the criminal case has been instituted as a retaliatory measure after commencement of the matrimonial proceedings.

10. Pleadings between the parties have already been exchanged.

Submissions on behalf of the Petitioners

11. Mr. Arvind Varma, learned Senior Advocate for the petitioners submitted that the allegations in the FIR are vague, general and omnibus in nature. It was urged that there are no specific instances, dates or particulars to support the allegations of cruelty, dowry demand or physical assault. Learned counsel submitted that the FIR employs expressions such as 'harassed', 'tortured', 'ill-treated', 'mentally disturbed' and 'subjected to cruelty' without identifying the specific acts, occasions or circumstances which are said to constitute such cruelty.

12. Learned counsel further submitted that the alleged monetary demands, though expressed through precise figures, are not supported by adequate particulars identifying the person who made each demand, the occasion on which it was made, the person from whom it was demanded and the manner in which the alleged harassment was connected with the demand. It was urged that the FIR attributes the demands generally to 'the matrimonial family' without distinguishing the conduct of petitioner No.1 from that of petitioners Nos.2 and 3.

13. Learned counsel placed particular emphasis upon the chronology. It was submitted that the marriage was solemnized on 12.11.2024, the parties separated on 03.02.2025, the divorce

petition was filed on 03.05.2025 and the FIR was registered on 30.06.2025. It was urged that the criminal complaint came after the marital relationship had already broken down and after the dispute had entered formal matrimonial adjudication. It was urged that these circumstances, viewed cumulatively, raise legitimate doubts about the veracity of the allegations. Reliance was placed upon the decisions of the Supreme Court in *State of Haryana v. Bhajan Lal*¹, *R.P. Kapur v. State of Punjab*², *Kahkashan Kausar @ Sonam v. State of Bihar*³, *Dara Lakshmi Narayana v. State of Telangana*⁴, *Shobhit Kumar Mittal v. State of Uttar Pradesh*⁵, *Kamal and Others v. State of Gujarat*⁶.

14. It was further submitted that relatives of the husband have been implicated without any specific role attributed to them. Learned counsel urged that the FIR attributes serious allegations collectively to 'the petitioners' or 'the matrimonial family' without adequately distinguishing the individual conduct of each petitioner. Reliance was placed upon the principle that relationship cannot substitute for an overt act and that general and omnibus allegations against relatives, without specific roles, do not justify continuation of criminal proceedings.

Submissions on behalf of the Respondents

15. Mr. Amit Daga, learned Senior Advocate for the respondent no. 4 opposed the writ petitions. It was submitted that the FIR discloses cognizable offences and requires investigation. It was urged that the delay in lodging the FIR has been expressly explained by the desire to preserve the matrimonial relationship.

1 1992 Supp (1) SCC 335

2 AIR 1960 SC 866

3 (2022) 6 SCC 599

4 2024 INSC 953

5 2025 INSC 1152

6 2025 INSC 504

According to the respondents, the informant deliberately refrained from initiating criminal proceedings immediately after 03.02.2025 in the hope that the matrimonial relationship could be preserved. It was submitted that the subsequent alleged threat dated 24.06.2025 constituted the circumstance which compelled the informant to approach the police.

16. Learned counsel further submitted that the FIR gives particulars concerning the marriage dated 12.11.2024, the expenditure and dowry articles, the alleged demand for Rs.10 crores, the alleged demand of Rs.50 lakhs on 07.12.2024, the alleged pressure to sign divorce papers, the alleged physical assault, strangulation, expulsion from the matrimonial home and the subsequent threatening telephone call dated 24.06.2025. It was urged that these allegations, if taken at their face value, disclose cognizable offences and require investigation.

17. Learned counsel submitted that medical records, hospital receipts, taxi bills and other documents support the allegations and that these matters require appreciation of evidence which is not permissible in writ jurisdiction. It was urged that this Court should not conduct a mini-trial or weigh the credibility of the parties at this stage. Reliance was placed upon *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra*⁷.

18. Learned counsel further submitted that the FIR contains direct allegations against the husband, father-in-law and mother-in-law and that the present case is therefore materially different from cases in which distant relatives were implicated merely by reason of their relationship with the husband. The written submissions specifically point out that the elder sister Reena Jain and her

⁷ (2021) 19 SCC 401

husband Jitendra Jain were also named, whereas the other three sisters of petitioner No.1-Gaurav Jain were not implicated, which, according to the respondents, demonstrates that the FIR was not prepared by mechanically naming every member of the family.

19. Learned A.G.A. appeared on behalf of the State vehemently opposed the writ petition and adopted the arguments advanced by the learned Senior Advocate for the respondent no. 4.

20. Heard learned counsel appearing for the respective parties and perused the record.

Issues

21. This Court has considered the submissions made before us and the perused the material placed on record. In light of the rival submissions, the following issues arise for consideration:

(i) Whether the allegations in the FIR, taken at their highest and read as a whole, disclose the essential ingredients of the offences invoked under Sections 85 and 86 of the Bharatiya Nyaya Sanhita, 2023, Sections 3 and 4 of the Dowry Prohibition Act, 1961, Sections 115(2) and 352 of the Bharatiya Nyaya Sanhita, 2023?

(ii) Whether, in the factual and chronological setting in which the FIR came to be registered, continuation of the criminal proceedings would serve the legitimate purpose of criminal law or amount to an abuse of process?

(iii) Whether the present case falls within the exceptional categories recognised in *Bhajan Lal (Supra)* and subsequent judgments warranting exercise of constitutional jurisdiction under Article 226 for quashing FIR?

Applicable Legal Principles

22. The governing principles remain those stated in *R.P. Kapur v. State of Punjab (Supra)*, *State of Haryana v. Bhajan Lal (Supra)* and reiterated in *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra (Supra)*. The High Court must ordinarily refrain from weighing evidence, testing the credibility of the informant or conducting a mini-trial. At the same time, the power of quashing is not excluded where the allegations, even if accepted in their entirety, do not constitute an offence, where the factual foundation is absent, or where the proceedings are manifestly attended by *mala fides* or instituted for an ulterior purpose.

23. In *Bhajan Lal (Supra)*, the Supreme Court recognized several categories where quashing may be justified, including cases where the allegations even if taken at face value do not constitute an offence, where the allegations are so absurd or inherently improbable that no prudent person can conclude that there is sufficient ground for proceeding, and where the criminal proceeding is manifestly attended with *mala fides* or instituted with an ulterior motive for wreaking vengeance. The categories were expressly described as illustrative rather than exhaustive.

23.1 The relevant paragraphs of *Bhajan Lal (Supra)* are as under:-

"102. In the backdrop of the interpretation of the various relevant provisions of the Code 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 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though 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 of myriad kinds of cases wherein such power should be exercised.

(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 concerned Act (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 concerned Act, 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.

103. *We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice."*

24. In ***Neeharika Infrastructure (Supra)***, the Supreme Court cautioned constitutional courts against stifling legitimate investigation and against conducting a mini-trial while examining a prayer for quashing. However, the very same judgment recognizes that where the allegations do not constitute the offence or where the proceeding is frivolous, vexatious or oppressive, the High

Court's jurisdiction remains available. There is an important distinction between appreciating evidence and examining whether the allegations constitute an offence. The former is impermissible at this stage. The latter is the very function which the Court must perform when an FIR is challenged under Article 226.

24.1. The relevant paragraphs of *Neeharika Infrastructure (Supra)* are as under :-

"10. While considering the aforesaid issue, law on the exercise of powers by the High Court under Section 482CrPC and/or under Article 226 of the Constitution of India to quash the FIR/complaint and the parameters for exercise of such powers and scope and ambit of the power by the High Court under Section 482CrPC and/or under Article 226 of the Constitution of India are required to be referred to as the very parameters which are required to be applied while quashing the FIR will also be applicable while granting interim stay/protection.

10.1. The first case on the point which is required to be noticed is the decision of this Court in R.P. Kapur [R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] . While dealing with the inherent powers of the High Court under Section 561-A of the earlier Code (which is in pari materia with Section 482 of the Code), it is observed and held that the inherent powers of the High Court under Section 561 of the earlier Code cannot be exercised in regard to the matters specifically covered by the other provisions of the Code; the inherent jurisdiction of the High Court can be exercised to quash proceedings in a proper case either to prevent the abuse of the process of any court or otherwise to secure the ends of justice; ordinarily criminal proceedings instituted against an accused person must be tried under the provisions of the Code, and the High Court would be reluctant to interfere with the said proceedings at an interlocutory stage. After observing this, thereafter this Court then carved out some exceptions to the abovestated rule, which are as under :

"(i) Where it manifestly appears that there is a legal bar against the institution or continuance of the criminal proceeding in respect of the offence alleged. Absence of the requisite sanction may, for instance, furnish cases under this category.

(ii) Where the allegations in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the first information report to decide whether the offence alleged is disclosed or not.

(iii) Where the allegations made against the accused person do constitute an offence alleged but there is either no legal evidence adduced in support of the case or the evidence adduced clearly or manifestly fails to prove the charge. In dealing with this class of cases 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 manifestly and clearly inconsistent with the accusation made and cases

where there is legal evidence which on its appreciation may or may not support the accusation in question. In exercising its jurisdiction under Section 561-A the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not. That is the function of the trial Magistrate, and ordinarily it would not be open to any party to invoke the High Court's inherent jurisdiction and contend that on a reasonable appreciation of the evidence the accusation made against the accused would not be sustained."

10.2. *In Kurukshetra University [Kurukshetra University v. State of Haryana, (1977) 4 SCC 451 : 1977 SCC (Cri) 613] , this Court observed and held that inherent powers under Section 482CrPC do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice; that statutory power has to be exercised sparingly with circumspection and in the rarest of rare cases. In the case before this Court, the High Court quashed the first information report filed by the Kurukshetra University through Warden and that too without issuing notice to the University, in exercise of inherent powers under Section 482CrPC. This Court noticed and observed that the High Court was not justified in quashing the FIR when the police had not even commenced investigation into the complaint filed by the Warden of the University and no proceedings were at all pending before any Court in pursuance of the FIR.*

10.3. *Then comes the celebrated decision of this Court in Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426]. In the said decision, this Court considered in detail the scope of the High Court powers under Section 482CrPC and/or Article 226 of the Constitution of India to quash the FIR and referred to several judicial precedents and held that the High Court should not embark upon an inquiry into the merits and demerits of the allegations and quash the proceedings without allowing the investigating agency to complete its task. At the same time, this Court identified the following cases in which FIR/complaint can be quashed:*

"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 fides 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."

10.4. *In Golconda Linga Swamy [State of A.P. v. Golconda Linga Swamy, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805], after considering the decisions of this Court in R.P. Kapur [R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] and Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] and other decisions on the exercise of inherent powers by the High Court under Section 482CrPC, in paras 5, 7 and 8, it is observed and held as under : (Golconda Linga Swamy case [State of A.P. v. Golconda Linga Swamy, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805]*

"5. Exercise of power under Section 482 of the Code in a case of this nature is the exception and not the rule. The section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely : (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. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognises and preserves inherent powers of the High Courts. All courts, whether civil or criminal, possess in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle quando lex aliquid aliunde concedit, conceditur et id sine quo res ipsa esse non potest (when the law gives a person anything, it gives him that without which it cannot exist). While exercising powers under the section, the Court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone courts exist. Authority of the Court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent such abuse. It would be an abuse of the process of the Court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the Court may

examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.

7. 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. ...

8. As noted above, the powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. [See Janata Dal v. H.S. Chowdhary [Janata Dal v. H.S. Chowdhary, (1992) 4 SCC 305 : 1993 SCC (Cri) 36] and Raghubir Saran v. State of Bihar [Raghubir Saran v. State of Bihar, 1963 SCC OnLine SC 102 : AIR 1964 SC 1] .] It would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises, arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the complaint cannot be proceeded with. In a proceeding instituted on complaint, exercise of the inherent powers to quash the proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of the inherent powers under Section 482 of the Code. It is not, however, necessary that there should be meticulous analysis of the case before the trial to find out whether the case would end in conviction or acquittal. The complaint/FIR has to be read as a whole. If it appears that on consideration of the allegations in the light of the

statement made on oath of the complainant or disclosed in the FIR that the ingredients of the offence or offences are disclosed and there is no material to show that the complaint/FIR is mala fide, frivolous or vexatious, in that event there would be no justification for interference by the High Court. When an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceeding."

10.5. *In Zandu Pharmaceutical Works Ltd. [Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque, (2005) 1 SCC 122 : 2005 SCC (Cri) 283] , in para 11, this Court has observed and held as under :*

"11. ... the powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. It would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the complaint cannot be proceeded with. In a proceeding instituted on complaint, exercise of the inherent powers to quash the proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of the inherent powers under Section 482 of the Code. It is not, however, necessary that there should be meticulous analysis of the case before the trial to find out whether the case would end in conviction or acquittal. The complaint has to be read as a whole. If it appears that on consideration of the allegations in the light of the statement made on oath of the complainant that the ingredients of the offence or offences are disclosed and there is no material to show that the complaint is mala fide, frivolous or vexatious, in that event there would be no justification for interference by the High Court. When an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceedings."

10.6. *In Sanapareddy Maheedhar Seshagiri [Sanapareddy Maheedhar Seshagiri v. State of A.P., (2007) 13 SCC 165 : (2009) 1 SCC (Cri) 170] , in para 31, it is observed and held as under : (SCC p. 180)*

"31. A careful reading of the abovenoted judgments makes it clear that the High Court should be extremely cautious and slow to interfere with the investigation and/or trial of criminal cases and should not stall the investigation and/or prosecution except when it is convinced beyond any manner of doubt that FIR does not disclose commission of any offence or that the allegations contained in FIR do not constitute any cognizable offence or that the prosecution is barred by law or the High Court is convinced that it is necessary to interfere to prevent abuse of the process of the Court. In dealing with such cases, the High Court has to bear in mind that judicial intervention at the threshold of the legal process initiated against a person accused of committing offence is highly detrimental to the larger public and societal interest. The people and the society have a legitimate expectation that those committing offences either against an individual or the society are expeditiously brought to trial and, if found guilty, adequately punished. Therefore, while deciding a petition filed for quashing FIR or complaint or restraining the competent authority from investigating the allegations contained in FIR or complaint or for stalling the trial of the case, the High Court should be extremely careful and circumspect. If the allegations contained in FIR or complaint disclose commission of some crime, then the High Court must keep its hands off and allow the investigating agency to complete the investigation without any fetter and also refrain from passing order which may impede the trial. The High Court should not go into the merits and demerits of the allegations simply because the petitioner alleges malus animus against the author of FIR or the complainant. The High Court must also refrain from making imaginary journey in the realm of possible harassment which may be caused to the petitioner on account of investigation of FIR or complaint. Such a course will result in miscarriage of justice and would encourage those accused of committing crimes to repeat the same. However, if the High Court is satisfied that the complaint does not disclose commission of any offence or prosecution is barred by limitation or that the proceedings of criminal case would result in failure of justice, then it may exercise inherent power under Section 482CrPC."

10.7. *In Arun Gulab Gawali [State of Maharashtra v. Arun Gulab Gawali, (2010) 9 SCC 701 : (2010) 3 SCC (Cri) 1459] , this Court set aside the order [Arun Gulab Gawali v. State of Maharashtra, 2006 SCC OnLine Bom 1524] passed by the High Court quashing the criminal complaint/FIR which was even filed by the complainant. In the case before this Court, prayer for quashing the FIR before the High Court was by the complainant himself and the High Court quashed the FIR/complaint in exercise of the powers under Section 482CrPC. Quashing and setting aside the judgment and order passed by the High Court quashing the FIR, this Court in paras 13 and 27 to 29 has observed as under : (Arun Gulab Gawali case [State of Maharashtra v. Arun Gulab Gawali, (2010) 9 SCC 701 : (2010) 3 SCC (Cri) 1459] , SCC pp. 706 & 710)*

"13. The power of quashing criminal proceedings has to be exercised very sparingly and with circumspection and that too in the rarest of rare cases and the court cannot be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of allegations made in the FIR/complaint, unless

the allegations are so patently absurd and inherently improbable so that no prudent person can ever reach such a conclusion. The extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice. However, the Court, under its inherent powers, can neither intervene at an uncalled for stage nor can it "soft-pedal the course of justice" at a crucial stage of investigation/proceedings. The provisions of Articles 226, 227 of the Constitution of India and Section 482 of the Code of Criminal Procedure, 1973 (hereinafter called as "CrPC") are a device to advance justice and not to frustrate it. The power of judicial review is discretionary, however, it must be exercised to prevent the miscarriage of justice and for correcting some grave errors and to ensure that stream of administration of justice remains clean and pure. However, there are no limits of power of the Court, but the more the power, the more due care and caution is to be exercised in invoking these powers. (Vide State of W.B. v. Swapan Kumar Guha [State of W.B. v. Swapan Kumar Guha, (1982) 1 SCC 561 : 1982 SCC (Cri) 283] , Pepsi Foods Ltd. v. Special Judicial Magistrate [Pepsi Foods Ltd. v. Special Judicial Magistrate, (1998) 5 SCC 749 : 1998 SCC (Cri) 1400] , G. Sagar Suri v. State of U.P. [G. Sagar Suri v. State of U.P., (2000) 2 SCC 636 : 2000 SCC (Cri) 513] and Ajay Mitra v. State of M.P. [Ajay Mitra v. State of M.P., (2003) 3 SCC 11 : 2003 SCC (Cri) 703])

27. The High Court proceeded [Arun Gulab Gawali v. State of Maharashtra, 2006 SCC OnLine Bom 1524] on the perception that as the complainant himself was not supporting the complaint, he would not support the case of the prosecution and there would be no chance of conviction, thus the trial itself would be a futile exercise. Quashing of FIR/complaint on such a ground cannot be held to be justified in law. Ordinarily, the Court of Session is empowered to discharge an accused under Section 227CrPC even before initiating the trial. The accused can, therefore, move the trial court itself for such a relief and the trial court would be in a better position to analyse and pass an order as it is possessed of all the powers and the material to do so. It is, therefore, not necessary to invoke the jurisdiction under Section 482CrPC for the quashing of a prosecution in such a case. The reliance on affidavits by the High Court would be a weak, hazy and unreliable source for adjudication on the fate of a trial. The presumption that an accused would never be convicted on the material available is too risky a proposition to be accepted readily, particularly in heinous offences like extortion.

28. A claim founded on a denial by the complainant even before the trial commences coupled with an allegation that the police had compelled the lodging of a false FIR, is a matter which requires further investigation as the charge is levelled against the police. If the prosecution is quashed, then neither the trial court nor the investigating agency has any opportunity to go into this question, which may require consideration. The State is the prosecutor and all prosecution is the social and legal responsibility of the State. An offence committed is a crime against society and not against the victim alone. The victim under undue pressure or influence of the accused or under any threat or compulsion may resile back but that would not absolve the State from bringing the accused to book, who has committed an offence and has violated the law of the land.

29. Thus, while exercising such power the Court has to act cautiously before proceeding to quash a prosecution in respect of an offence which hits and affects the society at large. It should be a case where no other view is possible nor any investigation or inquiry is further required. There cannot be a general proposition of law, so as to fit in as a straitjacket formula for the exercise of such power. Each case will have to be judged on its own merit and the facts warranting exercise of such power. More so, it was not a case of civil nature where there could be a possibility of compromise or involving an offence which may be compoundable under Section 320CrPC, where the Court could apply the ratio of *Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre* [*Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre*, (1988) 1 SCC 692 : 1988 SCC (Cri) 234].”

10.8. Thereafter in a catena of decisions, this Court has reiterated the parameters for exercise of inherent powers under Section 482CrPC and/or under Article 226 of the Constitution of India in the matter of quashing the FIR/complaint.”

25. In *Rajiv Thapar v. Madan Lal Kapoor*⁸, the Supreme Court recognised that, in an appropriate case, material relied upon by the accused may be considered where it is of sterling and impeccable quality, cannot reasonably be refuted and would rule out the factual foundation of the prosecution case without requiring evidence to be recorded.

25.1. The relevant paragraph of *Rajiv Thapar (Supra)* is as under:-

“30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashment raised by an accused by invoking the power vested in the High Court under Section 482 CrPC:

30.1. Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?

30.2. Step two: whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?

30.3. Step three: whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant?

30.4 Step four: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

8 (2013) 3 SCC 330

30.5 If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 CrPC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as proceedings arising therefrom) specially when it is clear that the same would not conclude in the conviction of the accused."

Statutory Framework

26. Section 85 of the Bharatiya Nyaya Sanhita, 2023 read with Section 86, substantially carries forward the offence previously contained in Section 498-A of the Indian Penal Code, 1860. The statutory definition has two distinct limbs. The first concerns wilful conduct of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to her life, limb or health, whether mental or physical. The second concerns harassment with a view to coercing the woman, or a person related to her, to meet an unlawful demand for property or valuable security, or harassment on account of failure to meet such demand. The provision does not criminalise the mere failure of a marriage, incompatibility between spouses or ordinary domestic disagreements. Criminality arises only when the conduct pleaded answers the statutory description.

27. The same discipline applies to Sections 3 and 4 of the Dowry Prohibition Act, 1961. Section 2 defines 'dowry' by reference to property or valuable security given or agreed to be given, directly or indirectly, in connection with the marriage. Section 3 penalises giving, taking or abetting the giving or taking of dowry, while Section 4 addresses a demand for dowry. The statutory provisions cannot be attracted merely because substantial expenditure was incurred at a marriage, articles were exchanged or financial disagreements later arose between the spouses. In *Appasaheb vs.*

State of Maharashtra⁹, the Supreme Court emphasized that the property or valuable security alleged must have the requisite connection with the marriage and penal provisions are to be strictly construed.

27.1. The relevant paragraph of ***Appasaheb (Supra)*** is as under:-

"11. In view of the aforesaid definition of the word "dowry" any property or valuable security should be given or agreed to be given either directly or indirectly at or before or any time after the marriage and in connection with the marriage of the said parties. Therefore, the giving or taking of property or valuable security must have some connection with the marriage of the parties and a correlation between the giving or taking of property or valuable security with the marriage of the parties is essential. Being a penal provision it has to be strictly construed. Dowry is a fairly well-known social custom or practice in India. It is well-settled principle of interpretation of statute that if the Act is passed with reference to a particular trade, business or transaction and words are used which everybody conversant with that trade, business or transaction knows or understands to have a particular meaning in it, then the words are to be construed as having that particular meaning. A demand for money on account of some financial stringency or for meeting some urgent domestic expenses or for purchasing manure cannot be termed as a demand for dowry as the said word is normally understood. The evidence adduced by the prosecution does not, therefore, show that any demand for "dowry" as defined in Section 2 of the Dowry Prohibition Act was made by the appellants as what was allegedly asked for was some money for meeting domestic expenses and for purchasing manure. Since an essential ingredient of Section 304-B IPC viz. demand for dowry is not established, the conviction of the appellants cannot be sustained."

28. Section 115(2) of the Bharatiya Nyaya Sanhita, 2023 concerns voluntarily causing hurt. The statutory foundation is the causing of 'hurt'. Section 115(1) defines the relevant conduct in terms of an act done with intention or knowledge of causing hurt which in fact causes hurt. Section 352 concerns intentional insult which gives provocation, coupled with the intention or knowledge that such provocation is likely to cause the person to break public peace or commit another offence. The provision is not a penalisation of every quarrel or every exchange of harsh words between persons in a matrimonial dispute.

9 (2007) 9 SCC 721

Analysis and Findings

29. This Court has considered the rival submissions and examined the FIR, the material placed on record and the chronology emerging from the admitted documents.

30. The limited question before this Court is whether the allegations in the FIR, taken at their highest and read as a whole, disclose the essential ingredients of the offences invoked and whether continuation of the criminal proceedings would serve the legitimate purpose of criminal law or amount to an abuse of process. This Court is not called upon to determine whether the allegations are ultimately true or false. Nor is this Court adjudicating the merits of the matrimonial proceedings pending between the parties. Those questions may arise only if the prosecution first discloses the factual foundation of the offences.

Insufficiency of particulars in the allegations

31. A complaint is not required to contain the evidence by which the allegations are ultimately to be proved. An FIR is not an encyclopedia. It is, however, required to disclose the factual substratum of the offence. A recital of statutory conclusions cannot replace the facts from which those conclusions are said to arise. The Supreme Court has repeatedly applied this distinction in matrimonial prosecutions.

32. In *Kahkashan Kausar @ Sonam (Supra)*, the Supreme Court held that general and omnibus allegations against the husband's relatives, without specific roles, do not justify continuation of criminal proceedings.

32.1. The relevant paragraphs of the *Kahkashan Kausar @ Sonam (Supra)* are as under :-

"13. *Previously, in the landmark judgment of this Court in Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449, 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-AIPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-AIPC 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 quite a number of cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested."

14. *Further in Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667 : (2010) 3 SCC (Cri) 473], it has also been observed :*

"32. It is a matter of common experience that most of these complaints under Section 498-AIPC are filed 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 filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre 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 filed 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 Section 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 fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

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

35. 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 the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the 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 scrutinised with great care and circumspection.

36. 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 filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of an amicable settlement altogether. The process of suffering is extremely long and painful."

18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that "all accused harassed her mentally and threatened her of terminating her pregnancy". Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution."

33. In ***Dara Lakshmi Narayana (Supra)***, the Supreme Court cautioned that generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis of criminal prosecution.

33.1. The relevant paragraphs of ***Dara Lakshmi Narayana (Supra)*** are as under :-

"18. A bare perusal of the FIR shows that the allegations made by respondent No.2 are vague and omnibus. Other than claiming that appellant No.1 harassed her and that appellant Nos.2 to 6 instigated him to do so, respondent No.2 has not provided any specific details or described any particular instance of harassment. She has also not mentioned the time, date, place, or manner in which the alleged

harassment occurred. Therefore, the FIR lacks concrete and precise allegations.

19. Further, the record reveals that respondent No.2 on 03.10.2021 left the matrimonial house leading appellant No.1 to file a police complaint on 05.10.2021. When the police officials traced her, respondent No.2 addressed a letter dated 11.11.2021 to the Deputy Superintendent of Police, Thirupathur Sub Division requesting to close the complaint made by appellant No.1. In the said letter, respondent No.2 admitted that she left her matrimonial Page 16 of 26 house after quarrelling with appellant No.1 as she was talking to a person by name Govindan over the phone for the past ten days continuously. She further admitted that appellant No.1 was taking good care of her. She also stated that she will not engage in such actions in future. Despite that, in 2021 itself, respondent No.2 once again left the matrimonial house leaving appellant No.1 and also her minor children.

20. Losing hope in the marriage, appellant No.1 issued a legal notice to respondent No.1 seeking divorce by mutual consent on 13.12.2021. Instead of responding to the said legal notice issued by appellant No.1, respondent No.2 lodged the present FIR 82 of 2022 on 01.02.2022 registered with Neredmet Police Station, Rachakonda under Section 498A of the IPC and Sections 3 and 4 of the Dowry Act.

27. We find that the High Court noted that there were also allegations against respondent No.2 and matrimonial disputes are pending between the parties. Therefore, the High Court came to the conclusion that custodial interrogation of the appellants was not necessary and protected the personal liberty of the appellants directing the Investigation Officer not to arrest the appellants till the completion of the investigation and filing of the charge-sheet. Albeit the said findings and observations, the High Court ultimately refused to quash the criminal proceedings against the appellants.

28. The inclusion of Section 498A of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise Page 22 of 26 in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498A of the IPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498A of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.

31. Further, this Court in Preeti Gupta vs. State of Jharkhand (2010) 7 SCC 667 held that 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 by the husband's close relatives 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 complainant are required to be scrutinized with great care and circumspection.

32. We, therefore, are of the opinion that the impugned FIR No.82 of 2022 filed by respondent No.2 was initiated with ulterior motives Page 25 of 26 to settle personal scores and grudges against appellant No.1 and his family members i.e., appellant Nos.2 to 6 herein. Hence, the present case at hand falls within category (7) of illustrative parameters highlighted in Bhajan Lal. Therefore, the High Court, in the present case, erred in not exercising the powers available to it under Section 482 CrPC and thereby failed to prevent abuse of the Court's process by continuing the criminal prosecution against the appellants."

34. More recently, in ***Shobhit Kumar Mittal (Supra)***, the Supreme Court held that general allegations of mental harassment or dowry demand, without particulars of the time, place, manner and nature of the alleged conduct, are insufficient to sustain the prosecution.

34.1. The relevant paragraphs of ***Shobhit Kumar Mittal (Supra)*** are as under :-

"18. A bare perusal of the FIR shows that the allegations made by complainant/respondent No.2 are vague and omnibus. Other than claiming that the husband and his family along with the accused/appellant herein mentally harassed her with a demand for dowry, the complainant/respondent No.2 has not provided any specific details or described any particular instance of harassment. She has also not mentioned the time, date, place, or manner in which the alleged harassment occurred or the details of the nature of demand or its particulars. Therefore, the FIR lacks concrete and precise allegations. Furthermore, the complainant/respondent No.2 has failed to impress the Court as to how the alleged harassment has any proximate relationship to the said injury and nerve damage that she sustained, so as to punish her in-laws under Section 323 IPC. There is no remote or proximate act or omission attributed to the accused/appellant that implicates him or assigns him any specific role in the said FIR for the offence of hurt as defined under Section 319 IPC. Furthermore, merely stating that the accused/appellant has mentally harassed the complainant/ respondent No.2 with respect to a demand for dowry does not fulfill the ingredients of Section 498A of IPC specially in absence of any cogent material or evidence on record to substantiate the said allegations. The term "cruelty" cannot be established without specific instances. The tendency of invoking the aforesaid provisions, without mentioning any specific

detail, weakens the case of the prosecution and casts serious aspersions on the probability of the version of the complainant. Therefore, this Court cannot ignore the missing specifics in the FIR which is the basic premise for invoking the criminal machinery of the State. In such cases involving allegations of cruelty and harassment, there would normally be a series of offending acts, which would be required to be spelt out by the complainant against perpetrators in specific terms to initiate criminal proceedings against them. Therefore, mere general allegations of harassment without pointing out the specific details would not be sufficient to continue criminal proceedings against any person.

19. Courts have to be careful and cautious in dealing with complaints and must take pragmatic realities into consideration while dealing with matrimonial disputes where the allegations have to be scrutinized with great care and circumspection in order to prevent miscarriage of justice and abuse of process of law.

21. On a careful consideration of the aforementioned judicial tests, we find that none of the offences alleged against the accused/ appellant herein is made out. In fact, we find that the allegations of cruelty, mental harassment and voluntarily causing hurt against the accused/appellant herein are vague and general in nature and therefore, the judgment of this Court in the case of Bhajan Lal squarely applies to the facts of this case. It is neither expedient nor in the interest of justice to permit the present prosecution emanating from the FIR to continue."

35. In ***Muppidi Lakshmi Narayana Reddy v. State of Andhra Pradesh***¹⁰, the Supreme Court quashed proceedings against relatives who were alleged to have visited the matrimonial home and instigated dowry demands, but against whom no specific date, occasion or individual act had been stated.

36. The FIR in the present case alleges that considerable expenditure was incurred at the time of marriage and that the matrimonial family was dissatisfied with what had been provided. It thereafter alleges demands for substantial additional amounts, including an alleged demand of Rs.10 crores and a further demand of Rs.50 lakhs. The amount mentioned in an allegation may be precise, but precision of amount is not the same as precision of conduct. To constitute a legally sustainable allegation of dowry demand, the FIR must disclose, at least in substance, the occasion

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on which the demand was made, the person who made it, the person from whom it was demanded, the circumstances in which it was made and the manner in which the alleged harassment was connected with the demand.

37. The FIR in the present case attributes the demands generally to the matrimonial family. It does not consistently distinguish the conduct of petitioner No.1- Gaurav Jain from that of petitioners Nos.2 and 3, namely, Pradeep Jain and Krishna Jain. It does not set out with adequate clarity the separate acts, occasions, words or conduct by which each petitioner is alleged to have committed cruelty or demanded dowry. The allegation of a large monetary figure cannot, by itself, cure the absence of such particulars. Nor can the reference to expenditure at the marriage establish, without more, the ingredients of Section 3 or Section 4 of the Dowry Prohibition Act, 1961.

38. The same difficulty arises in relation to the expressions 'harassed', 'tortured', 'ill-treated', 'mentally disturbed' and 'subjected to cruelty'. Such expressions may summarise a factual narrative. They cannot replace one. The Court must be able to identify from the FIR the acts which are said to satisfy Section 86 of the Bharatiya Nyaya Sanhita, 2023. The FIR uses the language of harassment but does not consistently identify the individual acts through which each petitioner is said to have committed statutory cruelty.

Absence of contemporaneous material

39. The allegations of physical assault and strangulation are undoubtedly serious. If established, conduct of that nature would warrant an appropriately serious response in law. The Court must not minimize such allegations or impose a medical-record

requirement as an inflexible condition for their acceptance. A victim of domestic violence may be unable to obtain immediate medical assistance. She may remain within the matrimonial home, depend economically or emotionally upon members of the household, fear social consequences or continue to hope that the relationship can be repaired. The absence of an MLC, therefore, cannot by itself establish that no assault took place.

40. However, in the present case, despite the assertion of repeated physical assault and an attempt at strangulation, the record placed before the Court does not disclose any contemporaneous domestic-violence complaint, any earlier complaint specifically alleging dowry demand, any PCR call or contemporaneous police intervention concerning the alleged assault, intimidation or strangulation, or any contemporaneous medico-legal record corresponding to the alleged physical injuries. Each of these circumstances, considered separately, may admit of an explanation. The judicial exercise, however, cannot end with identifying a possible explanation for each circumstance in isolation. The Court is required to apply its mind to the cumulative effect of the material.

41. The petitioners have placed before this Court medical material concerning respondent No.4's treatment at Sir Ganga Ram Hospital on 30.12.2024 and Medanta Hospital on 24.01.2025. The petitioners contend that the medical records do not record an external injury corresponding to the subsequent allegation of strangulation. The record also contains competing versions regarding the circumstances in which respondent No.4 was taken to hospital. This Court does not treat the absence of a particular injury in a medical record as conclusive proof that an assault did not occur. Such a conclusion would itself amount to an appreciation of evidence. But these documents cannot be completely ignored

when the Court is examining, not the ultimate truth of the prosecution case, but whether the criminal proceeding, viewed as a whole, should be permitted to continue.

The chronology and its significance

42. The chronology is undisputed. The marriage was solemnized on 12.11.2024. The wife left the matrimonial home on 03.02.2025. The husband instituted proceedings for dissolution of marriage under Section 13(1)(ia) of the Hindu Marriage Act, 1955 on 03.05.2025. The FIR was registered on 30.06.2025. The period of cohabitation was short. The parties separated within approximately three months of the marriage. No domestic-violence complaint, dowry complaint, PCR call or MLC relating to the alleged acts has been brought to the notice of the Court from the period during which the parties admittedly resided together.

43. The filing of the divorce petition does not furnish a defence to a criminal allegation. Nor does the fact that the FIR followed the divorce proceedings, by itself, establish that the FIR is false. A genuine victim may approach the criminal law after initially attempting to preserve the marriage, and delay may have an explanation. Chronology nevertheless remains relevant. It is a circumstance from which the Court may assess the context in which the allegations emerged.

44. In *Kamal v. State of Gujarat (Supra)*, the Supreme Court considered a FIR lodged three days after service of summons in divorce proceedings. It held that, in matrimonial cases, where allegations of *mala fides* are raised, the Court must examine whether the allegations were levelled with an oblique purpose, particularly when the allegations against the relatives were vague and lacked specific details. The Court quashed the proceedings

against the parents-in-law while allowing the proceedings against the husband to continue.

44.1. The relevant paragraphs of *Kamal (Supra)* are as under :-

"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 3 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."

45. In ***Dr. Sushil Kumar Purbey v. State of Bihar***¹¹, the Supreme Court held that delay, standing alone, was not sufficient for quashing. However, when read with the absence of specific allegations, it lent credence to the submission that the complaint had been instituted as a counterblast to divorce proceedings. The Court accordingly quashed the proceedings against the parents-in-law. In that case, the Supreme Court also took note of the fact that a material allegation concerning a Maruti car was added in a subsequent complaint although it did not appear in the earlier FIR. The Court treated such improvement, coupled with the lack of specific roles and proximity to matrimonial litigation, as relevant to the continuation of proceedings.

45.1. The relevant paragraphs of ***Dr. Sushil Kumar Purbey (Supra)*** are as under :-

"7. Having considered the submissions advanced by the parties and upon a careful perusal of the material on record, we are of the view that the High Court fell into error in restricting the quashing of criminal proceedings only to the sister-in-law (respondent no.3). A comparative reading of the FIR reveals that the allegations levelled against the sister-in-law and those against the present appellants are, in all material particulars, identical. The FIR does not assign any specific or overt act to either appellant; there are no particular dates, places, or individual acts attributed to them. The lone allegation that stands separately against the present appellants is that they would quarrel. This, however, does not constitute a criminal offence and cannot, by itself, sustain cognizance of the offences under Sections 341,

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323, 498A & 34 of the IPC and Sections 3 & 4 of the Dowry Act for which the appellants have been summoned. The standard applied by the High Court in quashing proceedings against the sister-in-law, on the ground that the allegations against her were general and omnibus, applies with equal force to the present appellants, and there is no principled basis for distinguishing between them.

8. It is further pertinent to note that the marriage was solemnised in July 2019, and the husband filed the divorce petition as early as March 2021. The criminal complaint against the appellants was, however, lodged only in March 2022, nearly a year after the filing of the divorce petition. Though this delay, standing alone, would not constitute a sufficient ground for quashing the criminal proceedings against the appellants. However, viewed in conjunction with the absence of any specific allegations attributable to them, the delay lends credence to the submission that the criminal complaint against the in-laws may have been instituted by way of a counter-blast to the divorce proceedings initiated by the husband. When these two considerations are read together, we are satisfied that the continuation of the criminal proceedings against the present appellants cannot be sustained."

46. The principle emerging from these decisions is not that a subsequent FIR is presumed to be retaliatory. It is that chronology may acquire substantial significance when accompanied by other objective circumstances, particularly absence of particulars, material improvements, lack of specific attribution and absence of any earlier indication of the serious acts later alleged. That is the position in the present case. The Court does not draw an adverse inference from delay alone. It draws attention to the convergence of circumstances such as short cohabitation, early separation, institution of divorce proceedings before registration of the FIR, absence of an earlier domestic-violence complaint, absence of earlier dowry-related calls or police intervention, absence of PCR calls, absence of an MLC on record relating to the alleged violence, and broad attribution of serious allegations to the matrimonial family collectively.

Individual attribution and implication of relatives

47. The Supreme Court has repeatedly cautioned against the tendency to implicate every member of the husband's family in matrimonial litigation. In *Geeta Mehrotra v. State of Uttar Pradesh*¹², *Preeti Gupta v. State of Jharkhand*¹³, *Kahkashan Kausar (Supra)* and *Dara Lakshmi Narayana (Supra)*, the Court stressed the necessity of specific allegations and individual attribution. The principle is not confined to relatives living separately. The relevant question is whether the FIR attributes to each accused conduct which, if accepted, satisfies the statutory ingredients. Relationship cannot substitute for an overt act.

48. In the present case, the FIR attributes serious allegations collectively to 'the petitioners' or 'the matrimonial family' without adequately distinguishing the individual conduct of each petitioner. Such collective attribution is inadequate where the prosecution seeks to subject each accused to the consequences of a criminal trial. The respondents have submitted that the elder sister Reena Jain and her husband Jitendra Jain were also named, whereas the other three sisters of Gaurav Jain (petition no. 1) were not implicated, which demonstrates that the FIR was not prepared by mechanically naming every member of the family. However, this submission does not address the core deficiency, which is the absence of specific acts, dates and occasions attributed to each petitioner individually.

Balance between protection of women and prevention of misuse

49. The protection of women from dowry-related violence and cruelty is a statutory and constitutional imperative. The existence

12 (2012) 10 SCC 741

13 (2010) 7 SCC 667

of misuse cannot justify weakening a genuine complaint, imposing an evidentiary burden at the FIR stage or discouraging a woman from seeking protection. In *Sushil Kumar Sharma v. Union of India*¹⁴, the Supreme Court recognized that the provision is intended to protect women from cruelty, while also observing that it must not become an instrument of harassment. In *Social Action Forum for Manav Adhikar v. Union of India*¹⁵, the Supreme Court preserved the statutory protection while emphasising the need for lawful safeguards against mechanical or abusive prosecution.

50. The converse concern is equally real. Matrimonial discord cannot automatically be converted into criminality. The criminal process is not a substitute for matrimonial adjudication, nor can it be used to determine every emotional, financial or relational consequence of a failed marriage. The Supreme Court in *G.V. Rao v. L.H.V. Prasad*¹⁶, cautioned that matrimonial skirmishes may rapidly assume serious proportions, resulting in the involvement of elders who might otherwise have assisted reconciliation. This Court is of the also of considered view that indiscriminate criminalisation can deepen the very conflict which matrimonial law is required to resolve.

50.1. The relevant paragraph of *G.V. Rao (Supra)* is as under:

"12. There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the 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 commission of 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 other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it

14 (2005) 6 SCC 281

15 (2018) 10 SCC 443

16 (2000) 3 SCC 693

takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts."

51. At this juncture, this Court finds it prudent to state that marriage is ordinarily a relationship of cohabitation, companionship, mutual trust and reciprocal obligation. Its legal and social character cannot be reduced either to a commercial transaction or to an instrument of coercion. At the same time, the social importance of marriage cannot justify compelling a spouse to remain in a relationship marked by violence, coercion or unlawful demands. The institution is preserved not by immunising wrongdoing, but by maintaining a principled distinction between genuine criminal conduct and the failure of matrimonial compatibility.

52. The Court must therefore avoid two opposite errors. The first is treating every criminal matrimonial complaint as *mala fide* merely because it follows separation or divorce proceedings. The second is treating every allegation in such a matrimonial FIR as immune from scrutiny merely because it is made by a woman or invokes protective penal provisions. The statutory purpose is served only when both propositions are considered and applied in light of the peculiar circumstances.

53. If allegations of cruelty, dowry demand and physical assault are sufficiently particularized and disclose the ingredients of the offences, the investigation must ordinarily proceed notwithstanding the pendency of divorce proceedings. However, if a short-lived matrimonial relationship has already collapsed, matrimonial litigation has commenced, and serious criminal allegations are subsequently introduced without individual attribution, without particulars of the alleged demands or acts, and without any contemporaneous circumstance supporting the narrative, the

constitutional court is not bound to send the accused through the entire machinery of criminal prosecution. Otherwise, criminal law would cease to punish defined conduct and would begin to operate as an automatic consequence of matrimonial failure.

The Philosophy of Marriage and the Limits of Criminal Law

54. Marriage has historically occupied a foundational position in human society, serving as much more than a mere contract between two individuals. In the framework of Hinduism, marriage (*Vivaha*) is regarded as a sacred *samskara* (sacrament) rather than a secular commercial agreement. It is conceived as a spiritual and social union intended for mutual growth, companionship, and the perpetuation of family and societal duties. Across various philosophical and cultural traditions, marriage acts and is considered to be as the primary element of social stability, forming the bedrock upon which familial trust, inter-generational bonds, and community welfare are built.

55. However, when a marriage falters, the emotional devastation experienced by the parties is profound. The breakdown of marital harmony often unleashes deep-seated grief, anger, and a desire for retribution. If every sour, distressed, or failed marriage is permitted to be routinely converted into a First Information Report (FIR) and subjected to the coercive machinery of criminal law, the institution of marriage will inevitably be affected at its very core. Criminal law is designed to punish public wrongs, heinous acts, and grave offenses against society. It possesses an inherent coerciveness, marked by the threat of arrest, social stigma, and protracted trial proceedings.

56. When this machinery is invoked mechanically upon the mere breakdown of emotional compatibility:

(i) The natural sanctuary of the home is transformed into a litigious battleground, destroying any residual possibility of reconciliation or amicable separation.

(ii) The fear of disproportionate and sweeping criminal allegations creates a chilling effect on families, deterring them from participating in or supporting matrimonial unions.

(iii) The profound moral gravity of criminal law is diluted, turning penal statutes into instruments of leverage or bargaining chips in civil or matrimonial disputes.

57. As the Supreme Court aptly cautioned in *G.V. Rao (Supra)*, criminalizing every ordinary matrimonial skirmish deepens the conflict. To prevent this systemic distortion, this Court is of the view that the judicial mind must perform a rigorous exercise of segregation. A court of law is duty-bound to separate genuine, actionable criminal victimization from vague, sweeping allegations that merely cloak civil incompatibility in criminal garb. This requires examining whether an FIR discloses the foundational elements of criminal acts, such as specific overt acts, distinct dates, individually attributed acts, and contemporaneous corroboration, or whether it relies on generalized, omnibus recitals of cruelty and harassment. As observed in landmark precedents like *Bhajan Lal (Supra)* and *Kahkashan Kausar (Supra)*, the judiciary cannot abdicate its duty to scrutinize whether a criminal proceeding is being used as a retaliatory counterblast to civil proceedings, such as a petition for divorce.

58. The protection of women from domestic cruelty and dowry-related violence remains a paramount statutory mandate. However, this protection loses its moral force if the criminal process is permitted to operate as an automatic, indiscriminate consequence

of matrimonial failure. Preserving the integrity of both criminal jurisprudence and the institution of marriage requires an unwavering judicial commitment to separating genuine criminality from the tragic, yet non-criminal, collapse of human relationships.

Application to the present case

59. Applying the above principles to the present case, this Court is satisfied that the impugned FIR does not disclose a sufficient factual foundation for continuation of the prosecution. The allegations of cruelty are stated substantially in generalised terms. The alleged monetary demands, although expressed through precise figures, are not supported by adequate particulars identifying the person who made each demand, the occasion on which it was made and the manner in which it was connected with an unlawful demand for dowry. The allegations against the petitioners are not sufficiently differentiated.

60. The allegations of assault and strangulation are grave, but the Court has not been shown any earlier domestic-violence complaint, PCR call, contemporaneous police intervention or MLC relating to the alleged injuries. Those omissions, by themselves, would not justify quashing. Their significance arises from their convergence with the short duration of cohabitation, the early separation, the prior institution of the divorce proceeding, the subsequent registration of the FIR and the absence of sufficient particulars in the allegations.

61. This Court is not recording a finding that the alleged events were impossible or that the respondent-wife was required to produce documentary proof before approaching the police. This Court is recording that the criminal process, in the form in which it has been invoked, rests upon allegations which are legally possible

but insufficiently particularised and objectively unsupported in the circumstances disclosed by the record. The FIR therefore falls within the principles stated in *Bhajan Lal (Supra)*, as *first*, because the allegations, even if accepted at face value, do not sufficiently disclose the statutory ingredients of the offences, and cumulatively, because the institution and continuation of the proceedings bear the features of a criminal process superimposed upon an already crystallised matrimonial dispute for the same purpose.

62. The continuation of the prosecution would, in these facts, subject the petitioners to the coercive machinery of criminal law without the foundational facts necessary to constitute the offences. It would therefore amount to an abuse of the process of law.

63. This Court is conscious that the power under Article 226 is extraordinary. Precisely for that reason, it must be exercised where the ordinary criminal process would itself become the instrument of injustice. The constitutional jurisdiction of this Court is not intended merely to supervise investigation. It exists also to secure the ends of justice and prevent abuse of process. *Bhajan Lal (Supra)* remains the controlling framework, while *Neeharika Infrastructure (Supra)* reminds this Court of the restraint with which that framework must be applied.

64. This Court is also conscious of the danger of courts becoming overly interventionist in cases involving allegations of violence against women. The answer is not to scrutinise a genuine complaint with an attitude of disbelief. The correct approach is to ask whether the allegations, taken at their highest, satisfy the statutory ingredients. Where they do, the investigation must ordinarily proceed. Where they do not, the Court should not compel a citizen

to undergo the ordeal of a criminal trial merely because the allegations are couched in serious language.

65. In the present case, the deficiencies noted above reach the threshold where this Court can hold that the allegations do not sufficiently disclose the statutory ingredients of the offences and that continuation of the proceedings would amount to abuse of process. The FIR contains allegations which, if proved, might constitute offences under the invoked provisions. However, the allegations are stated in such general and omnibus terms, without sufficient particulars of the acts, persons, occasions and circumstances constituting the statutory offences, that they cannot form the basis of criminal prosecution. The questions regarding the truth of the allegations, the credibility of the parties, the interpretation of medical records and the exact sequence of events are matters which cannot be determined at this stage. However, the foundational requirement of particularity is itself a statutory requirement which must be satisfied before the criminal process can be set in motion.

66. For the foregoing reasons, this Court finds it appropriate to exercise its extraordinary jurisdiction under Article 226 to quash the proceedings. The petitioners are at liberty to raise all available defences before the trial court, but in the present case, the trial itself cannot be permitted to commence because the FIR does not disclose the essential ingredients of the offences.

Conclusion

67. The writ petitions are accordingly *allowed*.

68. The FIR/Case Crime No. 0227 of 2025 dated 30.06.2025 registered at Police Station Hari Parvat, District Commissionerate

Agra, under Sections 115(2), 352 and 85 of the Bharatiya Nyaya Sanhita, 2023 and Sections 3 and 4 of the Dowry Prohibition Act, 1961, together with all consequential proceedings arising therefrom, is hereby quashed qua the petitioners.

69. It is clarified that this judgment shall not be construed as an adjudication upon the merits of the matrimonial proceedings pending between petitioner No.1 (Gaurav Jain) and respondent No.4 (Tanu Agarwal). The parties shall remain at liberty to pursue their respective remedies before the competent matrimonial court in accordance with law.

70. Nothing contained in this judgment shall prevent respondent No.4 from pursuing any independent remedy available to her in law in respect of any distinct cause of action, if otherwise maintainable, in accordance with the statutory requirements.

71. The observations contained herein are confined to the question of continuation of the criminal proceedings arising from the impugned FIR and shall not prejudice the determination of any other proceeding between the parties.

72. There shall be no order as to costs.

(Tarun Saxena,J.) (Chandra Dhari Singh,J.)

October 08, 2026

Saurabh