

IA. No. of 2010
In
C.C No. xxx of 2008.

a) As per charge sheet alleged allegations have taken place at Bangalore City. No part of the allegation taken place in this Hon'ble Court jurisdiction. As per section-177 of Criminal Procedure Code, every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed; accordingly applicant (A1) is

liable to be discharged from the case. Applicant put reliance on judgment of the Hon'ble Supreme Court of India available in ANNEXURE-P/1 in support of this ground.

b) Respondent No.1 furnished the false information as part of charge sheet U/s 498A, in Para-1, by saying the offence happened at complainant residence place at Hyderabad whereas the details in subsequent Para(s) of the charge sheet reveals that complainant matrimonial home is Bangalore City. No part of the alleged offence taken place at Respondent No.1 territorial jurisdiction.

c) Respondent No.1 failed to transfer the complaint to the concern police station has the jurisdiction for further investigation and did not comply with the Criminal Procedure Code. Applicant put reliance on judgment of the Hon'ble Supreme Court of India available in ANNEXURE-P/2 in support of this ground.

d) Further submit, Hon'ble Supreme Court of India held in Transfer Petition No.20 or 2010 that, jurisdiction matter may be held in Trial Court, order is in the Annexure-P/2-A, hence applicant request Hon'ble Court to consider the jurisdiction ground to discharge the applicant from the above said case proceedings.

e) Further submit that the applicant (A1) side witnesses are neighbors, includes old age women, and are residents of Bangalore City. The applicant side witnesses do not have friends or relatives in this city and are having business at Bangalore. This would result in great inconvenience in attending the court hearings in another state that witnesses are living and also need to travel more than 600KM would result in miss carriage of justice to the applicant.

f) Respondent No.1 failed to investigate the complaint at the alleged allegations taken place i.e., Bangalore City. Police did not even visit the crime place i.e., Bangalore City single time and completed the investigation at Hyderabad and filed the charge sheet in this Hon'ble Court. Investigation conducted on FIR. No. yy/2008 does not comply with the Criminal Procedure Codes. Proof for no investigation at crime place is enclosed as ANNEXURE-P/3.

2) None of the FIR allegation is part of the charge sheet and none of the witness's statements supports complaint allegations provide information that allegations in FIR all are completely false and further submit that police continued investigation and filed the charge sheet contains completely different and with new allegations to that of the FIR without having sufficient evidences. Even charge sheet allegations are not supported by the witnesses of the case. All the witnesses are none other than the blood relatives of the complainant, who did not live at Bangalore City. One of the witnesses is the independent witness, whose statement does not disclose any alleged offence. Even witnesses statements contradict with each other. Absolutely no evidence is available for allegations either in complaint or in charge sheet and applicant is liable to be discharged from the case under section 239 CrPC. Details are as describe below:

Section 239 of the Criminal Procedure Code reads as under:-

Section 239 CrPC: When accused shall be discharged.

“If, upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an Opportunity of being heard, the Magistrate considers the charge against the accused to be groundless”.

REF [A]: State of Karnataka Vs. L. Muniswamy , a three judge Bench of SC Court had observed that at the stage of framing the charge, the Court has to apply its mind to the question whether or not there is any ground for presuming the commission of the offence by the accused. As framing of charge affects a person’s liberty substantially, need for proper consideration of material warranting such order was emphasized.

REF [B]: When offences not prima facie made out against accused person framing of charge not proper in Imtiaz Ahmed Vs State of M.P. , 1997 Cri LJ 1844 (MP).

REF [C]: Allegations has to be specific in Krishan Jeet singh Vs. State of Haryana, 11 (2003) DMC 127 (P & H).

REF [D]: General allegations are not sufficient to procure 498-A in Surajmal Barithia V. State of west Bengal 11 (2003) DMC 546 (Cal) (DB).

REF [E]: Vague allegations are not acceptable in sher Singh V. state of Punjab 11 (2003) DMC 192 (P & H)

REF [F]: Bhajan Lal Bhatia & ors. Vs. Sarita Neelam 2005 Vol I HLR 59

Where evidence on record neither disclosed that there was cruelty on part o the accused which was of such a nature as was likely to drive victim to commit suicide or cause grave injury or danger to her life or limb or mental or physical health nor showed that she was harassed by accused with regard to any demand for additional dowry, section 498-A could not be attracted in such circumstances in Bomma Ilaiach Vs. State of U.P. , 2003 Cri LJ 2439 (AP)

REF [G]: Where there is no specific allegations in complaint, charge could not be proved in Krishan Jeet Singh Vs State of Haryana, II (2003) DMC 127 (P&H)

REF [H]: Conviction not sustainable in the absence of evidence of ‘torture’ or “harassment” in Benumadhab Padhi Mohapatra Vs State, 2004 (13) A<ST1:PERSoNNAME w:st="on">IC</ST1:PERSoNNAME> 253 (ori.)

REF [I]: Taunting is not Cruelty in Savitri Devi Vs Ramesh Chand , 2003, Cri LJ 2759 (Del) : 2003 (3) Crime 100.

NO EVIDENCE IS AVAILABLE FOR COMPLAINT ALLGATIONS

a) The allegation made in complaint that applicant (A1) and his sister (A2) use to harassed the complainant by saying the applicant (A1) left the match which is suppose to give Rs.1.0 crore and further beaten her by saying they wanted to get rid of complainant is absolutely false and is denied by applicant (A1). None of the witnesses support the complainant allegation including the blood relatives of the complainant. Even none of the witnesses and relatives of the complainant never heard of such incident occurrence from complainant. Absolutely no evidence available for this allegation. The admitted fact is that applicant married the complainant and also requested complainant to join him at Bangalore provide information that applicant is interested to lead matrimonial life with complainant. While inviting the complainant for matrimonial home no demands were made by applicant. Further submit that this allegation is false and is dropped from charge sheet allegations on A1.

b) The allegation made in complaint that applicant (A1) demanded the complainant to bring money by selling her property given by complainant's parents is absolutely false and is denied by applicant (A1). None of the witnesses support the complainant allegation. Even the blood relatives of the complainant do not support the complainant allegation. No evidence available for this allegation. This allegation is vague in nature without disclosing the nature of the harassment happened. Further submit that this allegation is false and is dropped from charge sheet allegations.

c) The allegation made in complaint that applicant (A1) restricted to make phone calls is absolutely false and is denied by applicant (A1). Complainant admitted in the same complaint that complainant use to call her brother on phone. Even the statements of complainant brother and parents say that complainant called them on phone. None of the witnesses supports the complainant allegation. Even the blood relatives of the complainant do not support the complainant allegation. Further submit that this allegation is false and is dropped from charge sheet allegations.

d) The allegation made in complaint that complainant's in-laws use to call applicant (A1) and advised on phone is absolutely false and is denied by applicant (A1). The consequences of the received phone calls from in-laws are not reported. No documentary evidences are supported on phone call details. None of the witnesses support the complainant allegation. Even the blood relatives of the complainant do not support the complainant allegation. No evidence available for this allegation. In-laws telephone calls list reveals that no call is made to the applicant (A1) due to lack of STD facility to the phone. Respondent no.1 failed to investigate the allegation to reveal the facts. Further submit that this allegation is false and is dropped from charge sheet allegations. This sole allegation made the in-laws of the complainant as accused in this false criminal case.

e) The allegation in complaint that applicant (A1) publicized saying the complainant is carrying 3 months pregnancy is absolutely false and is denied by applicant (A1). During investigation complainant filed to give the details with whom via which media applicant (A1) publicized. The said allegation is false. No evidence is collected and none of the witness supports the complainant allegation. Further submit that this allegation is false and is dropped from charge sheet allegations.

f) The allegation in complaint that applicant (A1) forced complainant to abort pregnancy is absolutely false and is denied by applicant (A1). Till complainant left matrimonial home at Bangalore, complainant was carrying pregnancy. No evidence is available on the pregnancy termination confirmation at Bangalore

NO EVIDENCE IS AVAILABLE FOR
CHARGE SHEET ALLGATIONS

g) The allegation in charge sheet that applicant (A1) was given dowry items at the time of complainant marriage by the complainant parents is false and is denied by the applicant. Even as per complaint no dowry is given to applicant. This allegation is

contradicting to the complaint allegation as well as the affidavit submitted by the complainant in Transfer Petition no.5/2010 on the file of Hon'ble Supreme Court of India. No documentary evidence is available in support of charge sheet allegation says dowry property given to the applicant. Though the complainant statement is contradicting and without having the reliable documentary evidence in support of the complainant statement, applicant is arrested under sections 3 & 4 of Dowry Prohibition Act, is illegal.

h) The allegation in charge sheet that applicant (A1) harassed the complainant physically for the less house hold articles purchased by the complainant's brother at Bangalore is absolutely false and is denied by applicant (A1). The eye-witness, i.e., the brother of the complainant and the complainant's parents say that only taunting taken place on house hold items and no physical harassment is reported by them. The allegation is vague and the details of the house hold items purchased by the complainant's brother at Bangalore are not disclosed and also the house hold items demanded by the applicant is not disclosed. None of the witnesses support the complainant allegation on physical harassment. Even the blood relatives of the complainant do not support the complainant allegation on physical harassment. No reliable evidence available for this allegation.

i) The allegation in charge sheet that applicant (A1) harassed the complainant for additional dowry is absolutely false and is denied by applicant (A1). Complainant admitted that no dowry is given to applicant (A1) and allegations saying demand for additional is absurd. None of the witnesses support the complainant allegation on additional dowry demand. Even the blood relatives of the complainant do not support the complainant allegation. No reliable evidence available for this allegation.

j) The allegation in charge sheet, that applicant (A1) forcibly aborted complainant's pregnancy at Bangalore is false and is denied by the applicant. No medical reports are available on forcible abortion and on the abortion confirmation.

k) The allegation in charge sheet that applicant (A1) and applicant's brother-in-law (A3) were necked out the complainant and complainant's brother out of house is absolutely false and is denied by applicant (A1). Complainant admitted in her petition MC.No.145/2009 on the file of Hon'ble Family Court of L.B.Nagar, that at the time of complainant leaving home at Bangalore City, applicant is not even available on phone for one week duration; hence applicant left Bangalore, reveals applicant's dishonesty in making false allegations on applicant (A1) and on brother-in-law of the applicant (A3).

l) The allegation in charge sheet saying that during complainant 5 days stay with in-laws, at in-laws place, in-laws used to say with complainant to bring additional dowry and further threatened complainant by saying they will perform another marriage on failure of meeting their demands is absolutely false. Complainant never lived 5 days with in-laws at in-laws place. Going by the version of the charge sheet complainant lived with not more than 24 hours. The allegation is absurd being no dowry is given to given to applicant (A1) and demanding additional dowry by in-laws is absurd.

CONTRADICTIONS ON
THE ALLEGATIONS

m) None of the allegation in the complaint is supported by the witness's statements. Also complainant's statements contradicts with her own written complaint and also with charge sheet version as describe below:

i. As per complaint, Rs.3,00,000/- cash, 80 kasulu gold and Rs.40,00,000/- worth agriculture land is given to complainant by her parents. Whereas police investigation report says above said property items were given to applicant (A1) at the time of marriage. Accused A1 is arrested under sections 3 & 4 of Dowry Prohibition Act, is illegal. Complainant admitted in her petition filed in Hon'ble Supreme Court of India saying that said property items were given to her by her parents as "Sridhan" as per her family tradition.

ii. As per complaint applicant (A1) and his sister harassed the complainant saying that complainant bought less dowry and harassed physically to get rid of complainant. Whereas charge sheet says complainant was harassed for less gifts purchased by complainant's brother at the time of complainant joined with Accused-A1 at Bangalore. Witnesses say that there was taunting on the gifts purchased. None of the witnesses support the complainant allegation on physical harassment. Even the blood relatives of the complainant do not support the complainant allegation on physical harassment.

iii. As per complainant version no demands were made for additional dowry by the applicant (A1). Whereas police investigation report says additional dowry is demanded by the applicant (A1) and none of the witness supports the charge sheet allegation. Even the blood relatives of the complainant do not support the charge sheet allegation.

iv. The reason said for forcible abortion is not consistent from FIR to charge sheet. Also the reason for forcible abortion said by the witnesses is inconsistency with the complainant.

n) Witness version contradicts with complainant version and also contradict with other witnesses as described below:

i) As per complainant and complainant's brother version no harassment happened at the time complainant visited Bangalore City just after the marriage during Nov-Dec-2007. Whereas the parents and relatives of the complainant given statements by saying that complainant was harassed by not providing food and necessities and demanded the complainant to bring money by selling the property given to complainant by them, at the time of marriage.

ii) As per complainant version no harassment at the time complainant visited the in-laws place, for the duration of one day, just before the day complainant joined with the

applicant (A1) at Bangalore. Even the statement of eye-witness i.e., the complainant's brother, who accompanied the complainant do not disclose any offence at in-laws place by the in-laws. Whereas the parents of the complainant given statements by saying that in-laws harassed the complainant at in-laws house.

iii) As per complainant version, on the day complainant joined with applicant (A1) at Bangalore dispute is raised on house hold items purchased, costing Rs.60,000/- by the complainant's brother for complainant's family and alleged that complainant was harassed physically by the applicant (A1) and by applicant's sister (A2) for bringing less house hold items and for less dowry. In contra the statement of the eye-witness, i.e., brother of the complainant do not disclose any physical harassment caused by A1 and A3 and also contradicts with complainant version. In contradiction to above two versions, the parents of the complainant say that for Rs.70,000/- house hold items were purchased and A1 and A3 did taunting on the items purchased and do not say that physical harassment happened.

iv) As per complainant's parents version applicant (A1) aborted the complainant's pregnancy forcibly at Hospital in Bangalore. Whereas the complainant and brother of the complainant do not say that abortion happened at hospital in Bangalore.

v) As per complainant's parents statement applicant made call from hospital saying complainant is in hospital and seeking for help. Whereas as complainant said that she made call from home.

vi) As per complainant version on the day complainant was thrown out of house applicant (A1) taken gold ornaments from complainant and thrown her out of house. In contra, the eye-witness, i.e., the brother of the complainant do not make such allegations. Also the statements of the complainant's parents do not support the complainant allegation. Whereas in complainant's maintenance suit filed in Hon'ble Family Court, L.B. Nagar, complainant admitted that at the time complainant was leaving the matrimonial home applicant was not available even on phone.

3) The allegations, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence under section 498A IPC or make out a case against the accused as describe below:

Section 498-A of the Indian Penal Code reads as under:-

“ Husband or relative of husband of a woman subjecting her to cruelty- Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation - For the purpose of this section, "cruelty" means –

(a) Any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) Harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable

security or is on account of failure by her or any person related to her to meet such demand.”

Under Explanation (a) the cruelty has to be of such gravity as is likely to drive a woman to commit suicide or to cause grave injury or danger to life, limb or health.

Under Explanation (b) cruelty means harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

Explanation (b) does not make each and every harassment cruelty. The harassment has to be with a definite object, namely to coerce the woman or any person related to her to meet harassment by itself is not cruelty. Mere demand for property etc. by itself is also not cruelty. It is only where harassment is shown to have been committed for the purpose of coercing a woman to meet the demands that it is cruelty and this is made punishable under the section.

REF [1]: While interpreting the provisions of Section 304-B, 498-A, 306 and 324, IPC in the decision reported as State of H.P.v Nikku Ram & Ors 1995 (6) SCC 219 the Supreme Court observed that harassment to constitute cruelty under explanation (b) to Section 498-A must have nexus with the demand of dowry and if this is missing the case will fall beyond the scope of Section 498-A, IPC.

REF [2]: The mental cruelty is explained by the Supreme Court of India by laying the following definition of “mental cruelty” in V.Bhagat Vs. Mrs.D.Bhagat AIR 1994 SC 710: “the parties cannot reasonably be expected to live together”. The situation must be such that the wronged party cannot reasonably be asked to put with such conduct and continue to live with the other party.

REF [3]: The supreme court in CRIMINAL APPEAL NO. 299 OF 2003 MANJU RAM KALITA vs. STATE OF ASSAM decided on 28/05/09 answered the question in negative. Speaking for the bench his lordship honorable Dr. B.S. Chauhan, J held that :

"Cruelty" for the purpose of Section 498-A I.P.C. is to be established in the context of section 498-A IPC as it may be a different from other statutory provisions. It is to be determined / inferred by considering the conduct of the man, weighing the gravity or seriousness of his acts and to find out as to whether it is likely to drive the woman to commit suicide etc. It is to be established that the woman has been subjected to cruelty continuously / persistently or at least in close proximity of time of lodging the complaint. Petty quarrels cannot be termed as 'cruelty' to attract the provisions of Section 498-A IPC. Causing mental torture to the extent that it becomes unbearable may be termed as cruelty.”

REF [4]: In Mohd. Hoshan v. State of A.P.; (2002) 7 SCC 414, the Supreme Court while dealing with the similar issue held that mental or physical torture should be "continuously" practiced by the accused on the wife. The Court further observed as under:

"Whether one spouse has been guilty of cruelty to the other is essentially a question of fact. The impact of complaints, accusations or taunts on a person amounting to cruelty depends on various factors like the sensitivity of the individual victim concerned, the social background, the environment, education etc. Further, mental cruelty varies from person to person depending on the intensity of sensitivity and the degree of courage or

endurance to withstand such mental cruelty. In other words, each case has to be decided on its own facts to decide whether the mental cruelty was established or not."

REF [5]: In *Girdhar Shankar Tawade v. State of Maharashtra*, AIR 2002 SC 2078; the Supreme Court held that "cruelty" has to be understood having a specific statutory meaning provided in Section 498A I.P.C and there should be a case of continuous state of affairs of torture by one to another.

REF [6]: Supreme Court in *Dr.N.G.Dastane Vs. Mrs.S.Dastane* (1975) 2 SCC 326 has referred to this aspect of 'cruelty' like this:-

"The cruelty must be of such a character as to cause 'danger' to life, limb or health or as to give rise to a reasonable apprehension of such a danger. Clearly danger to life, limb or health or a reasonable apprehension".

REF [7]: Similar view was taken by the Punjab & Haryana High Court in the decision reported as *Richhpal Kaur v. State of Haryana and Anr.* 1991 (2) Recent Criminal Reports 53 wherein it was observed that offence under Section 498-A IPC would not be made out if beating given to bride by husband and his relations was due to domestic disputes and not on account of demand of dowry.

REF [8]: In the decision reported as *Smt. Sarla Prabhakar Waghmare v State of Maharashtra & Ors* 1990 (2) RCR 18, the Bombay High Court had observed that it is not every harassment or every type of cruelty that would attract Section 498-A IPC. Beating and harassment must be to force the bride to commit suicide or to fulfill illegal demands.

REF [9]: It is thus clear from the reading of Section 498-A IPC and afore-noted judicial pronouncements that pre-condition for attracting the provisions of Explanation (b) to Section 498-A IPC is the demand and if the demand is missing and the cruelty is for the sake of giving torture to the women without any nexus with the demand then such a cruelty will not be covered under explanation (b) to Section 498-A, IPC. It may be a cruelty within the scope of Hindu Marriage Act, 1955 as held by the Supreme Court in the decision reported as *Shobha Rani v Madhukar Reddy* AIR 1998 SC 121. In said case, it was observed that cruelty under Section 498-A IPC is distinct from the cruelty under Hindu Marriage Act, 1955.

ALLEGATIONS DO NOT ATTRACT SECTION 498A IPC

a) Even considering the allegation in the charge sheet, that applicant (A1) harassed the complainant for the less house hold articles purchased by the complainant's brother at Bangalore, is happened to be true allegation do not attract Section 498A IPC as described below:

i) Applicant asked the complainant to join him and no demands were made by the applicant. During the initial 6 months period, i.e., before the complainant date of joining with applicant at Bangalore City, no allegations either on demands or on harassment are reported reveals no demands from applicant side.

ii) The nature of harassment happened to the complainant is not disclosed by the complainant and by the police investigation report. As per eye-witness, i.e., brother of complainant and the complainant parent's CrPC-161 statements, only taunting taken place on the house hold items saying house hold items are less, no specific items were demanded hence as per REF [1] allegation do not attract section 498A IPC. No physical harassment incidents are reported hence as per REF [4] & REF [6] allegation do not attract section 498A IPC. Further submit that complainant continued matrimonial life with applicant at Bangalore reveals complainant did not feel mental cruelty hence as per REF [2] allegation do not attract section 498A IPC. Further submit that complainant brother left to his native place also reveal there was no danger or threat to complainant from the applicant. There is no allegations reported saying that demands were continued during the complainant's stay with the applicant hence as per REF [3], REF [4] & REF [5] allegation do not attract section 498A IPC. Taunting on the house hold items which even did not force the complainant leave matrimonial house, do not attract the section 498A IPC.

iii) Also complainant did not allege that either applicant (A1) or other Accused demanded any specific house hold items from either complainant or from complainant's brother and also failed to reveal the list of house hold items were purchased by the complainant's brother, reveals the allegation is vague in nature.

iv) This allegation is not present in complaint. Further submit that while complainant describing the harassment caused by the applicant in case MC. No.145/2009 on the file of Hon'ble Family Court, L.B. Nagar, R.R. District, did not report that this incident is happened. This reveals the dishonesty of the petitioner in procuring the false allegations against the applicant.

b) Even considering the allegation in charge sheet, that applicant (A1) demanded additional dowry at the time of dispute on house hold itmes, is happened to be true this allegation do not attract Section 498A IPC as described below:

i) As admitted by the complainant in the complaint that no dowry is given and also no specific dowry items demand is reported and is a vague allegation. Mere demand of property is not amount to cruelty as per explanation (b) of the section 498A IPC, hence allegation do not attract section 498A IPC. This demand is not continued and no harassment is reported hence as per REF [3], REF [4] & REF [5] allegation do not attract section 498A IPC. No documentary evidence is available to show that additional dowry is demanded. Admitted fact is that no dowry is given to applicant and making an allegation that additional dowry is demanded is absurd. Complainant initially said that property itmes were given to her by her parents, later changed the version saying that same were given to applicant and made the applicant arrested under section 3 of the Dowry Prohibition Act. Upon making complaint on the complainant and her parents for the offence under section 3 of the Dowry Prohibition Act, complainant admitted in her affidavit filed in Transfer Petition No.5 of 2010, on the file Hon'ble Supreme Court of India, saying the property itmes was given to her by her parents as Sridhan which is their

family tradition. This reveals the dishonesty of the complainant in making false allegations.

ii) Continuous demand or continuous harassment is not reported and complainant continued to live with applicant at Bangalore reveals complainant did not feel mental cruelty as per REF [2] hence allegation do not attract section 498A IPC.

iii) This allegation is not present in complaint. Further submit that while complainant describing the harassment caused by the applicant in case MC. No.145/2009 on the file of Hon'ble Family Court, L.B. Nagar, R.R. District, did not report that this incident is happened. This reveals the dishonesty of the petitioner in procuring the false allegations against the applicant.

c) Even considering the allegation in charge sheet, that applicant (A1) suspected complainant's character by saying one year required to get pregnancy and complainant got pregnancy in six months and forced the complainant to consume pregnancy abortion tablets on 20th May-2008, is happened to be true this allegations do not attract Section 498A IPC as described below:

i) As per complainant version the cause of action for forcible abortion is not the dowry demand or additional dowry demand, hence allegation does not attract section 498A IPC as per REF [1].

ii) As per complainant version applicant forced her to abort her pregnancy, no physical cruelty is caused, not subjected to harassment and lived with applicant till her brother came to Bangalore and disputed with applicant. During the dispute also applicant did not subjected the complainant to any physical cruelty such that complainant received injuries which would attract section 498A IPC as per REF [2], REF [3], REF [4] and REF [5].

iii) The complainant is B.Sc graduate and has one year working experience in medical domain though no medial reports are submitted in support of the forcible abortion provide information that allegation is false and even no medical report on pregnancy termination confirmation report at Bangalore is submitted. Kukatpally police refused to investigate the allegation on forcible pregnancy abortion even after applicant requested them and replied saying allegation does not attract 498A IPC hence no need of investigation. Pregnancy abortion did not happen at Bangalore till complainant left matrimonial home.

<ST1:PERSoNNAME w:st="on">Support</ST1:PERSoNNAME>ing documents are in ANNEXURE-P/4.

iv) Applicant filed criminal complaint against the complainant under sections 312 IPC, 506, 120B, 384 and 500 of IPC at Bangalore City; Hon'ble Court in Bangalore City took the cognizance and ordered for investigation.

v) As per complaint version applicant believes that complainant was carrying three months pregnancy and did publicized saying the same and as per CrPC-161 statement of

the complainant version, applicant believes that even 6 months is not enough to get pregnancy contradicts with earlier said version. This reveals complainant attempt to develop false story on the pregnancy termination matter against the applicant.

vi) Further submit that while complainant describing the harassment caused by the applicant in case MC. No.145/2009 on the file of Hon'ble Family Court, L.B. Nagar, R.R. District, did not report that this incident is happened. This reveals the dishonesty of the petitioner in procuring the false allegations against the applicant.

d) Even considering the allegation in charge sheet, that applicant (A1) and his brother-in-law necked out the complainant out off matrimonial home, is happened to be true as per REF [1] allegation do not attract section 498A IPC being this incident happened not to meet dowry demands by the complainant. No physical injuries reported and the incident did not create danger to complainant life hence as per REF [3], REF [4] and REF [5] incident do not attract section 498A IPC. Further submit that complainant admitted version in her affidavit in MC. No.145/2009 on the file of Hon'ble Family Court, L.B. Nagar, R.R. District, says applicant was physically not present at the time complainant was leaving the matrimonial home and also said that even on phone applicant was not available reveals the complainant's dishonesty in making allegations on the accused.

4) Respondent No.1 did improper investigation and investigation report do not comply with the Criminal Procedure Codes and the following consequences are resulted:

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CONSEQUENCES OF ABUSE OF PROCESS OF LAW

a) Neighbors, who are potential eye-witnesses of the real facts, statements are not recorded which provide information that alleged allegations are false and not possible to occur. Documentary evidences from Bangalore were not collected which provide information that allegations are false.

b) Police failed to collect the statement from the complainant sister-in-law, i.e., wife of complainant's brother, who was present along with the complainant during her join with applicant at Bangalore.

c) Though the complainant statement during the investigation contradicts with her own written statement in complaint on the property items, without having reliable evidence in hand, police arrested the applicant (A1) under sections 3 & 4 of Dowry Prohibition Act.

d) Respondent No.1 failed to reveal the facts that during the entire days matrimonial life (not more than 23 days) of complainant at Bangalore complainant along with applicant (A1) attended marriage parties, birthday parties, did shopping and invited guests to home at Bangalore. Respondent No.1 failed to visit Bangalore and failed to reveal the facts. Further submits, Respondent No.1 failed to reveal the fact that even on

the last day complainant did shopping to purchase gifts for a party at neighbors house with whom complainant used to spend most of her day time.

e) Respondent No.1 failed to collect neighbor's statements, which are the potential eye-witnesses for the incident on considering the complainant version is true and also failed to reveal the facts that no disputes were taken place on the day complainant joined with applicant (A1) at Bangalore.

f) Respondent No.1 failed to reveal the facts that only complainant and the applicant lived together at Bangalore and failed to reveal the fact that none of the applicant relatives lived with applicant.

g) Even though neighbors from Bangalore came to Kukatpally PS and told to the investigation officer that no part of the allegations in are true, investigation officer refused to investigate and collect neighbor's statements at Bangalore. Also investigation officer failed to collect possible documentary evidences for the complaint allegations; in fact these documentary evidences provide information that allegations are false.

h) Applicant (A1) and other accused were not informed about the new allegations added in the charge sheet, which are not part of complaint and failed to give an opportunity to the accused to submit the evidences during the investigation. Further submit investigation officer failed to collect possible documentary evidences to support complainant allegations, which in fact provide information that allegations are false.

i) Respondent No.1 investigation did not investigate at Bangalore to reveal the fact that applicant's (A1) relatives did not live with complainant family at Bangalore City to cause any harassment to the complainant.

j) Respondent No.1 investigation did not reveal the fact that in-laws did not made phone calls to Accused (A1). Police failed to collect the documentary evidences in support of the complainant allegations and still charges are made on in-laws.

k) No investigation carried out on forcible abortion allegation at Bangalore and failed to confirm whether forcible abortion taken place or not. No medical reports are submitted or collected by the Respondent No.1.

l) Investigation did not disclose and collect the documentary evidences to support the allegation that complainant brother purchased house hold items for the complainant family at Bangalore.

m) Despite no supporting evidence is available with the police on the complainant allegations, police opposed granting the anticipatory bail to sister of the applicant.

n) Police supplied false information to this Hon'ble Court, through the Remand Case Dairy and the Charge Sheet, by saying that crime happened in the jurisdiction of this Hon'ble Court.

5) The other grounds would be urged at the time of hearing.

P R A Y E R

Therefore it is most respectfully prayed that this Hon'ble court may be pleased to:-

a) Pass an order of discharge of applicant (A1) in the proceedings CC.No.xxx/2008 on the file of this Hon'ble Court.

And

b) Pass such other order or further orders as this Hon'ble Court deems fit and proper in the particular facts and circumstances of this case.

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Cyderabad,
Dt:

Adocate/ Applicant:
Sig: