

श्रुति शर्मा-II
Ms. SHRUTI SHARMA-II

जुडिसियल मैजिस्ट्रेट-प्रथम श्रेणी, (परिचय)
Judicial Magistrate-First Class. (West)
(महिला कोर्ट)-02, कक्ष संख्या 180
(Mehta Court)-02, Room No. 180
सिस हजारी कोर्ट, दिल्ली
Tis Hazari Court, Delhi

Cr. Case 6438/2025

STATE Vs. [REDACTED]
FIR No. 94/2025 (Tilak Nagar)

09.07.2026

As per the direction issued by Hon'ble DHC vide letter No.01/RG/DHC/2023 dt. 05.06.23 regarding hybrid hearing, the matter is taken up through VC as well as physically.

I am also holding Evening court for the month of July, 2026.

Arguing Counsels:

Ms. Sonu Pandey, Ld. APP for the State.

Ms. Jyoti Sharma and Sh. Rishabh Jain, Ld. Counsel for accused.

The present charge-sheet has been filed against the accused [REDACTED] for offences punishable under Sections 498A and 323 of the IPC.

The Ld. APP for the State has pressed for framing of charges under both the aforesaid provisions on the basis of the allegations made by the complainant. Ld. APP for the State submitted that the offence under Section 323 IPC is duly supported by the MLC of the complainant, whereas the detailed complaint and the statements recorded during investigation prima facie disclose the commission of an offence under Section 498A IPC.

Per contra, Ld. counsel for the accused argued that there existed an age difference of approximately 11 years between the parties at the time of their marriage and that the complainant was never happy with the marriage as it was allegedly not solemnized with her free consent and willingness. It was submitted that owing to matrimonial differences, both parties mutually realized that the marriage was not workable and, accordingly, entered into a settlement for amicable separation in the year 2024, which forms part of the charge-sheet as well. It was further submitted that the reason behind the said settlement was that the complainant desired to remarry her alleged paramour and to do the same she even voluntarily relinquished the custody of the minor child in favour of the accused, and acting upon the same both parties proceeded with the first motion petition for divorce by mutual consent before the Ld. Family Court, which was recorded on 03.02.2024.

It was further argued that after the first motion, the complainant suddenly resiled from the settlement and, instead went ahead and lodged the present complaint after approximately four months after separation and about three months after the recording of the first motion against the accused. Ld. counsel for the accused further submitted that the present complaint is a clear afterthought, instituted only to harass the accused,



and that no specific instances have been alleged which satisfy the ingredients of as contemplated under Section 498A IPC.

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Ld. counsel further contended that although the complainant has alleged that the settlement agreement was forged and that her signatures were obtained fraudulently, she neither initiated any criminal proceedings alleging forgery nor instituted any proceedings challenging or seeking cancellation of the settlement or the first motion passed by Ld. Family Court. It was argued that the present complaint was filed solely with the intention of harassing the accused.

It was further submitted that the principal grievance raised by the complainant pertains to the alleged impotence of the accused. However, despite making such allegations, the complainant admittedly gave birth to a child during the subsistence of the marriage. Ld. counsel further argued that if the complainant was dissatisfied with the matrimonial relationship or had grievances regarding the alleged impotence of the accused, the appropriate remedy available to her was to seek dissolution of marriage, which she did so as well by entering into the settlement agreement for dissolution of marriage however, Instead of acting on it, the complainant herself resiled from the settlement, and rather chose to lodge the present criminal complaint.

With regard to the incident dated 02.05.2024, which forms the basis for the allegation under Section 323 IPC, it was argued that the allegations of assault are omnibus in nature. Ld. counsel submitted that the material placed on record reflects that the dispute on the said date had actually arisen between the accused and the alleged paramour of the complainant, whose statement under Section 161 Cr.P.C. also forms part of the charge-sheet. It was further argued that the complainant herself got her medical examination conducted and that no photographs depicting any injuries allegedly sustained by her have been placed on record.

Ld. counsel for the accused further placed reliance upon the order dated 19.12.2024 passed by this Court in the connected proceedings under the Protection of Women from Domestic Violence Act, 2005, MC No. 326/2024 titled as [REDACTED] [REDACTED] which were subsequently dismissed for non-prosecution on account of the non-appearance of the complainant. It was submitted that the said order records that the complainant was residing with her alleged paramour, namely Harshdeep Singh. Ld. counsel further argued that the Protection Officer, during the course of the visit conducted pursuant to the proceedings, also reported that the complainant was residing with the said person. On the strength of the aforesaid material, it was contended that the complainant has not approached the Court with clean hands and has deliberately concealed material facts pertaining to her relationship with the said person.

In conclusion, Ld. counsel submitted that the present case is one where the complainant, being unhappy with the marriage from its inception and not desirous of either continuing the matrimonial relationship or retaining the custody of the child, has



maliciously instituted the present proceedings with the sole object of harassing the accused. It was argued that otherwise also from the bare perusal of the allegations of the complainant, the essential ingredients of the offences alleged are not prima facie made out and, therefore, the accused is entitled to be discharged.

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A perusal of the charge-sheet reveals that the IO has recorded that the complainant was asked to furnish details and proof regarding the expenses allegedly incurred in the marriage. However, she was unable to produce any documentary material in support of the said claim.

The IO has also recorded the statement of one Harshdeep Singh, who is stated to be a neighbour of the complainant and the accused and is also cited as an eyewitness to the alleged incident dated 02.05.2024. The charge-sheet further contains the MLC of the complainant obtained from DDU Hospital pertaining to the said incident.

The charge-sheet is also accompanied by the relevant DD entry regarding the incident dated 02.05.2024. As per the said DD entry, when the IO reached the spot, he found two men and one woman abusing each other, while the two men were engaged in a physical altercation. It is further recorded that the IO, with the assistance of the public persons present at the spot, separated both the men and initiated preventive proceedings under Sections 107/151 Cr.P.C. against them.

The charge-sheet further includes the affidavits filed by both the complainant and the accused before the Ld. Family Court in the proceedings for divorce by mutual consent, wherein the date of separation has been stated to be 10.01.2024. Pertinently, the affidavit filed by the complainant bears her signatures on each page and is also duly attested by the Oath Commissioner.

The charge-sheet also contains the statement of Harshdeep Singh with respect to the incident dated 02.05.2024. Notably, Ld.counsel for the accused has contended that the said Harjinder Singh is the alleged paramour of the complainant.

Having noted the material collected during the course of investigation, this Court shall now proceed to examine the allegations made by the complainant and determine whether a prima facie case exists for framing of charges against the accused.

The foundation of the present case is the complaint dated 11.05.2024 lodged by the complainant, Sushma. In the said complaint, the complainant has stated that she married the accused on 23.11.2015. It has been alleged that the accused subjected her to physical and mental cruelty and, under the guise of trust, induced her to sign divorce papers relating to a petition for divorce by mutual consent. According to the complainant, her signatures on the settlement deed for divorce were obtained by deceit



and, consequently, the accused unlawfully obtained the custody of the minor child in terms of the settlement dated 23.02.2024.

counsel, if any, himself while the settlement deed was initiated.

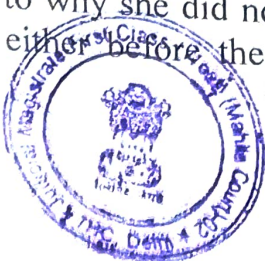
A careful reading of the complaint reveals that the complainant herself begins by stating that she had agreed to relinquish her rights in property bearing No. 201 situated in Uttar Pradesh as well as the custody rights of the minor child. Simultaneously, she alleges that the accused, in connivance with his counsel, drafted the settlement deed in a deceitful manner and manipulated her into signing the same. Significantly, the complainant has nowhere denied that the signatures appearing on the settlement deed are hers. Her grievance is not that the document was forged or fabricated, but that her consent was obtained by deceit. Thus, the challenge raised by the complainant is essentially to the voluntariness of her consent and not to the execution of the document itself.

It is further pertinent to note that the affidavit filed by the complainant before the Ld. Family Court in support of the first motion petition contains a specific declaration, both on the first page as well as on the concluding page, affirming that the contents thereof had been read over and explained to her in a language understood by her, that she had understood the same, and that she was signing the affidavit voluntarily, out of her own free will and without any force, coercion or undue influence. The said affidavit bears the signatures of the complainant on each and every page and is duly attested by the Oath Commissioner.

What is more important is that the complaint itself contains apparent inconsistencies. On the one hand, the complainant states that she had agreed to relinquish the custody rights of the child as well as said property, while on the other hand, in the very same complaint, she alleges that the accused unlawfully took away the custody of the child. These averments, read together, create uncertainty regarding the exact nature of her grievance.

It is also an admitted position emerging from the complaint itself that the parties had already appeared before the Ld. Family Court and the first motion petition for divorce by mutual consent had been recorded. The complainant herself admits that it was only after the recording of the first motion that she allegedly came to know of the accused's ill intentions, pursuant to which she issued a legal notice dated 05.04.2024 seeking to terminate the settlement. The complainant has, therefore, not disputed either the execution of the settlement deed or the fact that proceedings pursuant thereto had already been undertaken before the Ld. Family Court.

In these circumstances, certain aspects remain unexplained. The complainant claims to be a well-educated person, having done her B.Sc. and possessing prior work experience, as reflected in her own complaint. Despite this, there is no explanation as to why she did not raise any objection regarding the alleged absence of free consent either before the Oath Commissioner who attested the affidavits, before her own



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counsel, if any, who represented her in the proceedings, or before the Ld. Family Court itself while the first motion petition was being considered. The complaint is also silent as to the nature of the alleged deceit practised upon her, the circumstances in which the settlement deed was executed, and the manner in which her consent was allegedly vitiated.

Further, although the complainant states that she became aware of the alleged deceit after the first motion proceedings and accordingly issued a legal notice dated 05.04.2024, she has not explained why no complaint was lodged before any competent authority immediately upon acquiring such knowledge. The present complaint came to be filed only thereafter, without any explanation for the intervening delay.

The material placed on record further reflects that the settlement deed was acted upon by the parties before the Ld. Family Court. Whether the complainant was legally entitled to subsequently withdraw from the settlement or challenge its validity is an issue falling within the domain of the proceedings before the competent court. However, the sequence of events assumes relevance while appreciating the bona fides of the allegations forming the basis of the present criminal prosecution.

It was recently held by the Hon'ble Supreme Court in the case of **Dhananjay Rathi vs Ruchika Rathi Criminal Appeal No(s). 1924 OF 2026** that the spouse cannot withdraw the consent for mutual divorce after agreeing for the same in the settlement of claims.

Nevertheless, this Court being Magisterial Court has no power to quash or stop the proceedings so the scope of consideration at the stage of framing of charge is confined to determining whether the material collected during investigation discloses a prima facie case for the offences alleged. However, despite that the said conduct of the complainant assumes importance in understanding her intent behind filing the present complaint.

Accordingly, the allegations constituting the offences punishable under Sections 498A and 323 IPC are required to be independently examined on the touchstone of the material collected during investigation to determine whether the essential ingredients of the said offences are prima facie made out against the accused.

The complainant, in her complaint, has stated that the principal cause of matrimonial discord between her and the accused was his alleged sexual behaviour, his alleged impotency on account of the 11 year age difference between the parties and his medical ailments, coupled with his habit of excessive consumption of alcohol.

At the outset, this Court is of the prima facie view that even if the allegations regarding the accused's alleged impotency are assumed to be true for the purposes of the present proceedings, the same, by itself, would not constitute "cruelty" within the meaning of Section 498A IPC. Alleged impotency or sexual incapacity may, in a given case, furnish ground for seeking appropriate matrimonial relief before the Ld. Family Court.



However, unless accompanied by allegations disclosing the ingredients of cruelty contemplated under Section 498A IPC, such a condition, by itself, cannot be elevated to the status of a criminal offence. The complaint does not disclose how the alleged impotency of the accused, assuming it to exist, amounts to wilful conduct of such a nature as is likely to drive the complainant to commit suicide or to cause grave injury or danger to her life, limb or health, nor does it disclose that the same was connected with any unlawful demand for property or valuable security.

The complainant has further alleged that the accused had concealed his medical condition and that the revelation of his health issues and alleged impotency disturbed her mental peace. According to the complainant, these facts remained concealed until the year 2022. However, the complainant admittedly married the accused in the year 2015 and further admits that a child was born out of the wedlock in the year 2018. In these circumstances, the complaint does not explain how the alleged impotency remained undiscovered till the year 2022 or how such an allegation is reconcilable with the admitted fact that the parties had consummated the marriage and had a child. These assertions, therefore, appear prima facie inconsistent and remain unexplained.

The complainant has also alleged that the accused had concealed certain pre-existing ailments prior to the marriage, thereby playing a fraud upon her. However, apart from making a bald allegation of concealment, the complaint neither specifies the exact ailments allegedly suppressed nor explains how such alleged concealment continued unnoticed for several years after the marriage. More importantly, the complaint does not disclose how the alleged non-disclosure of the accused's medical condition, in the facts of the present case, satisfies the ingredients of "cruelty" as defined under Section 498A IPC. Mere non-disclosure of a medical condition, without any further allegations bringing the case within the statutory definition of cruelty, cannot, by itself, constitute an offence under Section 498A IPC.

The complainant has thereafter alleged that an amount of Rs. 7,00,000/- along with jewellery and cash amounting to Rs. 3,50,000/- was given at the time of the marriage. Significantly, the complaint merely states that the aforesaid articles and amounts were given in the marriage as dowry. There is no specific allegation that the accused or his family members had raised any demand for dowry prior to, at the time of, or after the marriage, or that the said articles were delivered pursuant to any coercion, pressure or unlawful demand. Thus, the allegations, as pleaded, do not prima facie disclose that the alleged giving of money or articles was the consequence of any demand made by the accused or his family members.

It may also be noted that the complainant herself has used the expression "dowry" while describing the articles allegedly given at the time of marriage.

It is further pertinent to note that under the provisions of the Dowry Prohibition Act, the prohibition is not confined merely to the demand or acceptance of dowry. The



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giving of dowry is also prohibited under the Act. Thus, the complainant's own averment that dowry was given at the time of the marriage prima facie amounts to an admission that such articles were given as dowry. If the said averment is accepted at its face value, the same would also prima facie disclose the commission of an offence relating to the giving of dowry under the Dowry Prohibition Act.

The complainant has further alleged that the accused used to consume alcohol late at night with his male friends and certain teenagers and, in their presence, subjected her to verbal abuse. However, the complaint does not specify the period during which such incidents allegedly occurred. It also fails to disclose the nature of the verbal abuse allegedly inflicted upon the complainant or the identity of the persons in whose presence such abuse was allegedly committed. In the absence of any material particulars, such allegations remain vague, general and omnibus in nature and do not disclose any specific instance of cruelty attributable to the accused.

The complainant has further stated that, from June 2023 onwards, on the proposal of the accused, she started working and earning. According to her, the same led to disputes within the family and ultimately resulted in her being compelled to leave the matrimonial home. However, even with respect to this allegation, the complaint is conspicuously silent as to the specific acts committed by the accused which allegedly compelled her to leave the matrimonial home. No date, incident or particular act of cruelty has been narrated. In the absence of any specific factual foundation, the allegation also appears to be bald and general in nature.

The complainant has thereafter alleged that the accused evicted her from the matrimonial home and retained the custody of the minor child. However, no date or surrounding circumstances have been disclosed in the complaint with respect to the said allegation. On the contrary, the settlement deed and the affidavits filed by both parties before the Ld. Family Court in the proceedings for divorce by mutual consent specifically record that the parties had separated on 10.01.2024 and that the complainant had moved out of the matrimonial home on the said date.

The complainant has also alleged that the accused is suffering from diabetes and, on account thereof, is incapable of taking proper care of the minor child. However, even if the said allegation is accepted at its face value, the same does not prima facie disclose the commission of an offence under Section 498A IPC. Merely suffering from a medical condition or ailment is neither a deliberate nor a wilful act intended to subject the spouse to cruelty within the meaning of Section 498A IPC.

Accordingly, considering the allegations in their entirety and the material collected during investigation, this Court is of the prima facie view that the essential ingredients of the offence punishable under Section 498A IPC are not made out against the accused. The accused is, therefore, liable to be discharged for the offence punishable under Section 498A IPC.



Thereafter, the complainant has primarily relied upon the incident dated 02.05.2024 on the basis of which the prosecution has also sought framing of charge for the offence punishable under Section 323 IPC. The said allegation shall now be examined separately.

The complainant has alleged that on 02.05.2024, after she had left the house, the accused followed her, abused her and, when she protested, physically and verbally assaulted her. It has further been alleged that a common acquaintance of both the parties intervened to rescue her, and that she sustained injuries on her face and body.

To substantiate the said allegation, the prosecution has placed on record the MLC dated 02.05.2024 prepared at DDU Hospital. The MLC records the nature of injuries as simple and mentions the history of physical assault by the husband as narrated by the complainant.

However, the contemporaneous DD entry pertaining to the same incident presents a different picture. As per the DD entry, when the IO reached the spot, he found two men and one woman abusing each other, while both the men were engaged in a physical altercation. One of the said men was identified as Harshdeep Singh, who is stated to be a neighbour of the complainant and the accused and who, according to the accused, is the complainant's alleged paramour. The DD entry nowhere records that either of the two men was assaulting the complainant or that the complainant was the direct victim of any physical attack at the spot. Rather, it records that the police, with the assistance of public persons, separated both the men, following which preventive proceedings under Sections 107/151 Cr.P.C. were initiated against them.

The statement of Harshdeep Singh recorded during investigation under Section 161 Cr.P.C states that on the said date he was dropping the complainant to the metro station when the accused arrived and allegedly started beating the complainant, whereupon he intervened. Significantly, however, the complainant herself has not specifically stated in her complaint that Harshdeep Singh was accompanying her at the time of the alleged incident.

At this stage, the order dated 19.12.2024 passed in the said connected proceedings under the Protection of Women from Domestic Violence Act assumes relevance. The said order records the report of the Protection Officer, who, upon visiting the address where the complainant was residing, was informed by the owner of the premises that the complainant was allegedly residing with, and was in a relationship with, her neighbour. It is not disputed that Harshdeep Singh is the neighbour referred to by the parties. While the aforesaid material is not conclusive proof of the relationship alleged by the accused, it is nevertheless a circumstance emerging from the material collected during investigation which is relevant for appreciating the surrounding circumstances in which the incident dated 02.05.2024 allegedly occurred.



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Although the MLC does establish that the complainant sustained simple injuries, the existence of an MLC, by itself, is not determinative of the question whether the offence under Section 323 IPC is prima facie made out. The surrounding circumstances are equally relevant. The contemporaneous DD entry indicates that the altercation was primarily between the accused and Harshdeep Singh, resulting in preventive proceedings under Sections 107/151 Cr.P.C. against both of them. The material collected during investigation does not clearly indicate that the accused had intentionally caused hurt to the complainant. Rather, the material, taken as a whole, suggests that a scuffle had ensued involving the accused, Harshdeep Singh and the complainant, during which the complainant sustained injuries.

Thus, merely because the complainant suffered simple injuries, it cannot automatically be inferred that the ingredients of Section 323 IPC stand prima facie established against the accused. At the stage of framing of charge, the Court is required to assess whether the material gives rise to a grave suspicion regarding the commission of the offence. Having considered the complaint, the DD entry, the statement of Harshdeep Singh, the MLC and the other material collected during investigation in a holistic manner, this Court is of the view that the material does not raise a grave suspicion warranting the framing of charge under Section 323 IPC.

Accordingly, the accused is also liable to be discharged for the offence punishable under Section 323 IPC.

Since no offence survives against the accused, the accused [REDACTED] stands discharged from this case.

File be consigned to the Record Room after due compliance.

At request, Dasti.



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न्यायिक दण्डाधिकारी-प्रथम श्रेणी (पश्चिम)
(SHRUTI SHARMA) (W)
Judicial Magistrate First Class
(Mahila Court)-02
(Mahila Court)-02
West/THC/Delhi 09.07.2026