

**Dipika Vs. State of Gujarat**

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**SooperKanoon Citation :** [sooperkanoon.com/918789](http://sooperkanoon.com/918789)

**Court :** Gujarat

**Decided On :** Jun-15-2011

**Judge :** S.R.Brahmbhatt, J.

**Acts :** Indian Penal Code (IPC) - Sections 498-A, 323, 504, 114; Code of Criminal Procedure (CrPC) (Cr.P.C) - Section 482

**Appeal No. :** CRIMINAL MISC.APPLICATION No. 2064 of 2011

**Appellant :** Dipika

**Respondent :** State of Gujarat

**Advocate for Def. :** MR. K.P. RAWAL, Adv.

**Advocate for Pet/Ap. :** MS. REKHA L. JADEJA, Adv.

**Judgement :**

1. Heard learned advocates for the parties. The petitioner who has been named as accused no.2 in C.R. No. II-191/2007 dated 13/7/2007 registered with Bhavnagar 'B' Division Police Station for the offences punishable under section 498-A, 323, 504 read with section 114 of Indian Penal Code has approached this Court under section 482 of Cri. Procedure Code for quashment of the same- qua the present petitioner only.

2. The complainant has alleged in the complaint that petitioner happened to be her husband's girl friend and on account of their illicit relationship he was harassing and torturing the complainant informant. Learned advocate for the petitioner submitted that the complainant has not disclosed any offence for which she could be subjected to undergo the rigors of criminal proceeding.

3. None is present for respondent no.2, the wife - original informant. Learned APP submitted that trial is going on and criminal proceeding being Criminal Case No. 3808/2007 is actually at the stage of recording of evidence.

4. This Court is of the view that when the plain reading of the complaint is incapable of indicating any overt act which could be said to be sufficient for rope-in the present petitioner for the offences alleged at any stage, she has a right to approach the Court for quashment of the criminal proceedings. Advocation of section 498-A is definitely not available so far as the present petitioner is concerned. That leaves offence alleged punishable under section 323 and 504 read with section 114 I.P. Code. Plain reading of entire complaint did not disclose nowhere as to invoke section 323 against the present petitioner. The general allegations without pointing out any particular incident of causing simple hurt or hurling abuses would not warrant petitioner being subjected to rigors of criminal trial. The proceedings of the trial in form of criminal case No. 3808/2007 also would not help the prosecution in maintaining the case so far as the present petitioner is concerned.

5. This Court is therefore of the view that the complaint and the proceedings - qua the present petitioner are required to be quashed and are accordingly quashed. Rule made absolute. Direct service permitted.

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