

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 486 OF 2019

- 1 Pravin s/o. Ramnath Jadhav,
Age – 25 years, Occu. Agril.,
- 2 Ramnath s/o. Babasaheb Jadhav,
Age – 60 years, Occu. Agril.,
- 3 Kanchan w/o. Ramnath Jadhav,
Age – 55 years, Occu. Housewife,
- 4 Kuldip s/o. Dipak Jadhav,
Age – 23 years, Occu. Agril.,
All R/o. Bor-Ranjani, Tq. Ghansavangi,
District Jalna.
- 5 Prashant s/o. Dnyandeo Jadhav,
Age – 22 years, Occu. Agril.,
R/o. Sundar Nagar, Chandan Zira, Jalna.
- 6 Nanda w/o. Dipak Jadhav,
Age – 42 years, Occu. Housewife,
R/o. Bor-Ranjani, Tq. Ghansavangi,
District Jalna.
- 7 Rani w/o. Ajit Mogal,
Age - years, Occu. Housewife,
R/o. Rakundi, Taluka Sailu, Dist. Parbhani
- 8 Kavita w/o. Haribhau Shejul,
Age - years, Occu. Housewife,
R/o. Anjadoha, Taluka And District –
Aurangabad.
- 9 Varsha w/o. Rahul Kharat,
Age - years, Occu. Housewife,
R/o. Waghi Dhanora, Taluka Jintur,
District Parbhani.

VERSUS

- 1 The State of Maharashtra
Through Police Station, Sailu,
Taluka Sailu, District Parbhani
- 2 Meghana Pravin Jadhav,
Age – 23 years, Occu. Housewife,
At present R/o. Dasala, Taluka Sailu,
District Parbhani.

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Mr. Manish P. Tripathi, Advocate for Applicants.

Mr. A.S. Shinde, APP for Respondent No. 1.

Smt. Sheetal E Waghmare, Advocate for Respondent No. 2.

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**CORAM : T.V. NALAWADE &
K. K. SONAWANE, JJ.**

DATED : 4th JUNE, 2019.

JUDGMENT :- (Per: K.K.SONWANE, J.)

1. Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel for parties at admission stage.
2. The applicants preferred present application under Section 482 of the Code of Criminal Procedure ("Cr.P.C.") seeking relief to quash and set aside the First Information Report ("FIR") bearing No. 10 of 2019 registered at Sailu Police Station, Taluka Sailu, District Parbhani, for the offence punishable under Sections 498-A, 452, 323, 504 read with Section 34 of the Indian Penal Code ("IPC").
3. It has been alleged on behalf of prosecution that the first informant – complainant Meghana Pravin Jadhav approached to the Police of Sailu Police Station, District Parbhani, on 05-01-2019 and ventilated the grievance that her marriage was solemnized on 25-05-2014 with applicant No.1 Pravin Jadhav as per Hindu Rites and Rituals. She has begotten son Anirudha, aged 4 years, out of their wed-lock. According to complainant- Meghana, she was cohabiting with the husband at her matrimonial home jointly with in-laws, namely Ramnath Babasaheb Jadhav, Kanchan Ramnath Jadhav. It has been contended that, applicant Kuldeep Jadhav, Prashant Jadhav are her cousin brother-in-laws, whereas, applicant No.6 is her cousin mother-in-law, applicants No. 7 to 9 are her sister-in-laws. According to prosecution, all the accused subjected her to mental and physical cruelty on account of suspicion on her character. They used to abuse and keep her unfed.

The applicant – cousin sister-in-law were instigating her husband and others for harassment to the complainant Meghana. They used to scold and humiliate her by making allegation about her character. There was also demand of money from husband and in-laws of complainant Meghana. The husband Pravin filed proceeding in the Court to get custody of minor son. Eventually, complainant – Meghana rushed to Police Station and filed the present complaint for penal action against applicants. Pursuant to FIR, Police of Sailu Police Station registered the crime and set the penal law in motion.

4. Pending the investigation, applicants moved present application by invoking remedy under Section 482 of the Cr.P.C. for relief to quash and set aside the penal proceeding initiated against them bearing FIR No. 10 of 2019.

5. Learned counsel for applicants submits that there were no physical and mental cruelty to the complainant Meghana, but she has filed penal proceedings against applicants on the basis of false accusation. There were no specific allegations about maltreatment and torture to complainant Meghana on the part of applicants. All the allegations are vague and general in nature. The applicants No. 4 to 9 are the distant relatives and residing separately from husband and in-laws of complainant Meghana. They had no any reason to cause interference in the marital life of spouses and in no manner they could be beneficiaries of the alleged mental and physical cruelty to complainant Meghana. But, the applicants are roped in this case just to get settled the scores. Hence, he requested to quash the proceedings against the applicants.

6. The learned APP as well as learned counsel for respondent No. 2- first informant raised objections to the contention propounded on behalf of applicants and submit that the recitals of the FIR discloses mental and physical cruelty meted out by complainant Meghana at the hands of applicants. The complainant specifically made allegation that there was unlawful demand of money on the part of husband and in-laws of the complainant for digging well. The rest of the applicants-accused used to scold and humiliate the complainant Meghana on account of infidelity. They used to instigate the husband for cruelty to complainant Meghana.

7. Having given anxious consideration to the arguments advanced on behalf of both sides, this Court was not inclined to nod in favour of applicants No. 1 to 4 for exercise the inherent powers under Section 482 of Cr.P.C. Eventually, learned counsel for applicants No.1 to 4 seeks leave to withdraw the proceedings to their extent. Accordingly, leave was granted for withdrawal of application to the extent of applicants No.1 to 4.

8. In regard to allegations nurtured against applicants No. 5 to 9, we find that allegations cast on behalf of complainant Meghana against these distant relative are vague and general in nature. There are no specific allegations in regard to overt-act for maltreatment and harassment to the complainant Meghana. There were no detail particulars given in the FIR about the participation of these applicants No. 5 to 9 for their act of humiliation or insult to the complainant on account of her character. The allegations about scolding etc. are also found stray and sweeping in nature.

9. At this juncture, the question that arises, whether the FIR registered against applicant can be quashed and set aside by exercise of powers under Section 482 of Cr.P.C. It is worth to mention that the Honourable Apex Court in the case of - **Kansraj Vs. State of Punjab and others** reported in **(2000)5 Supreme Court Cases, 207** observed that, *"a tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged is likely to affect the case of the prosecution even against the real culprits. In the cases, where accusations are made, the overt-acts attributed to persons other than husband, are required to be proved beyond reasonable doubt. Their Lordships of Apex Court further observed that, "in their over-enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused."*

10. In the case of - **Preeti Gupta and another Vs. State of Jharkhand and another,** reported in **(2010) 7 Supreme Court Cases 667,** it has been delineated that *ultimate object of justice is to find out truth and punish the guilty and protect the innocent. A serious relook of the entire provision of Section 498-A of Cr.P.C. is warranted by the legislature. It was observed that the exaggerated versions of the incidents are also reflected in a very large number of complaints.*

11. Likewise, in the case of - **Arnesh Kumar Vs. State of Bihar and another,** reported in **(2014) 8 Supreme Court cases, 273,** the Honourable Apex Court elucidated the fact that, *"Section 498-A of IPC*

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 provisions."

12. The Honourable Apex Court in the case of **State of Haryana and others Vs. Ch. Bhajan Lal and others** reported in **MANU/SC/0115/1992 : 1991(1) RCR(Cri), 383 (SC)** held that "*where the proceedings is instituted with an ulterior motive or were the allegations made in the complaint are absurd and improbable, the Court would be within its power to quash the complaint/FIR*". Moreover, if the allegations in the FIR against the applicants are taken at their face value and accepted the same in its entirety would not constitute any offence or make out case against applicants, in such circumstances, there would not be any propriety to allow the prosecution to proceed further into the matter.

13. In the matter in hand, it would unjust and improper to allow the prosecution to proceed against applicants No. 5 to 9. It would be an futile efforts and would cause injustice to them. It would also dissipate the precious time of Court of law. The ends of justice would be served by ensuring that the applicants may not be forced unnecessarily to go on litigations before the Criminal Court. Hence, penal proceeding initiated against these appellants deserves to be quashed and set aside. Therefore, we proceed to pass following order :

ORDER

1. The Criminal Application is allowed partly.

2. Application in respect of applicants No. 1 to 4, namely, Pravin Ramnath Jadhav, Ramnath Babasaheb Jadhav, Kanchan Ramnath Jadhav and Kuldip Dipak Jadhav stands disposed of as withdrawn.
3. Application in respect of applicants No. 5 to 9, namely, Prashant Dnyandeo Jadhav, Nanda Dipak Jadhav, Rani Ajit Mogal, Kavita Haribhau Shejul and Varsha Rahul Kharat, stands allowed.
4. The penal proceeding initiated against applicants No. 5 to 9, namely, Prashant Dnyandeo Jadhav, Nanda Dipak Jadhav, Rani Ajit Mogal, Kavita Haribhau Shejul and Varsha Rahul Kharat, bearing FIR No. 10 of 2019, for the offences punishable under Sections 498-A, 452, 323, 504 read with Section 34 of IPC registered with Sailu Police Station, District Parbhani, is hereby quashed and set aside.
5. Rule is made absolute partly in terms of prayer clause "B".
6. Criminal Application is disposed of in above terms.
7. No order as to costs.

[K. K. SONAWANE]
JUDGE

[T.V. NALAWADE]
JUDGE