

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1204 OF 2019

1. Ashwini W/o Rajkumar Reddy @ Awale
Age – 27 years, Occu.: Household,
R/o : Kherda, Tq. Auraad Barali,
Dist. Biddar State Karnataka
At present Wadehuri Tq. Loha Dist. Nanded.
2. Nanda @ Mahananda w/o Narsing Yelnare,
Age – 25 years, Occu.: Private Service,
R/o : CIDCO Aurangabad,
At present Lithe Home Sambhaji Chowk,
Keshavnagar Road, Pune,
Tq. & Dist. Pune.

... Applicants

Versus

1. The State of Maharashtra
Through Investigation Officer,
Ahmedpur Police Station,
Tq. Chakur, Dist. Latur.
2. Shilpa W/o Rameshwar Mare,
Age – 29 years, Occu.: Household,
R/o Lingdhaal Tq. Ahmedapur,
Dist. Latur.

... Respondents

Advocate for the Applicants : Shri. G.J. Pahilwan & D. P. Mahalinge
APP for the Respondent No. 1 : Shri. D. R. Kale
Advocate for the Respondent No. 2 : Shri G. P. Shinde

CORAM : T. V. NALAWADE &
K.K. SONAWANE, JJ
DATE : 9th JULY, 2019.

ORAL JUDGMENT : [PER K.K. SONAWANE,J]

1. Heard. Rule. Rule is made returnable forthwith. Matter is taken up for finality with the consent of learned counsel for parties.
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 Crime No.77/2019 registered at Ahmedpur Police Station, District Latur, for the offence punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code (“IPC”).
3. It has been alleged on behalf of prosecution that the first informant – complainant – Shilpa approached to the Police of Ahmedpur Police Station, on 09/03/2019 and ventilated the grievance that her marriage was solemnized on 08/05/2017 with one Rameshwar Mare. The applicants are the sisters-in-laws of complainant. It has been alleged that after marriage the complainant went to Yengewadi, Taluka Chakur, Dist. Latur for cohabitation. She was treated properly by the in-laws for a period of one year. But, thereafter, they started to harass her on the ground that she should bring Rs. 10 Lakhs from her parents for supporting the husband in business. Thereafter on 24.12.2018 her relative from parental side came and gave understanding to the in-laws. But, even thereafter, there was no change in their behaviour. The ill-treatment and harassment to the complainant was continued. It has been alleged that on 7th January, 2019, the complainant cooked food and after having meals, the in-laws kept the complainant unfed and at about 10.30 p.m. in the night, the

mother in law and others, beaten-up her with kick and fist blows. They gave threats to kill her. But, any how she escaped from their clutches. Since then, she started residing at her parental home. It has been alleged that on 27/1/2019 too, the in-laws came to her parent's house and hurled abuses as well as assaulted her parents. They again made demand of Rs. 10 Lakhs, and gave threat that if the demand is not fulfilled she will not be allowed to cohabit with husband. Eventually, the complainant approached to the Ahmedpur Police Station and lodged the FIR.

4. Pursuant to FIR, Police of Ahmedpur Police Station, Latur. registered the crime and set the penal law in motion. 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.

5. Learned counsel for applicants vehemently submits that there were no physical and mental cruelty to the complainant on the part of applicants. But, she has filed present penal proceeding with ulterior motive to harass the applicants. There were no specific allegations about maltreatment and torture meted out to the complainant – Shilpa. The allegations in the FIR are vague and baseless. There was no direct and indirect involvement of applicants. The Learned counsel for applicants relied upon the legal guidelines delineated by the Apex Court in the case of *State of Haryana Vs. Chi. Bhajanlal and others reported in 1992(1) SCC 335*.

The learned counsel further submits that the present applicants are sisters-in-law of complainant. They are residing separately with husband at their matrimonial home. They have no reason to cause interference in marital life of complainant nor they are beneficiaries from marital discord.

6. The learned APP as well as learned counsel for respondent No. 2-first informant vociferously opposed the contentions put-forth on behalf of applicants and submit that the allegations of ill treatment nurtured on behalf of complainant in the FIR discloses commission of crime punishable under Sections 498-A, 323, and 504 etc. of the IPC. The complainant categorically described the episode of her maltreatment and torture at the hands of applicants. There was cheating and misappropriation of money by the husband.

7. In regard to allegations nurtured against applicants, we find that the allegations cast on behalf of complainant – Shilpa against the applicants are vague and general in nature. There are no specific allegations attributing overt-act of all these applicants to maltreat and harass the complainant – Priya. There were no detail particulars given in the FIR about the participation of these applicants for their act of humiliation or insult to the complainant on account of demand of money. The allegations about cruelty by these applicants are found stray and sweeping in nature. Moreover, the applicants are the sisters-in-law of complainant. They are residing separately. They have no reason to cause interference in marital life of complainant nor they are beneficiaries from marital discord.

8. At this juncture, the question that arises, whether the FIR registered against applicants 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 Punja 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."*

9. 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.*

10. 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.”

11. It is worth to mention that the Honourable Apex Court in the case of **Madhavrao Jiwaji Rao Schindia AIR 1988 SC 709** above categorically elucidated in paragraph No. 7 as under:

“7. The legal position is well-settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage.”

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 instant case, it would be unjust and improper to allow the prosecution to proceed against applicants. It would be an futile efforts and would cause injustice to them. It would also dissipate the precious time of Court of law as the possibility of ultimate conviction is totally bleak. 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 applicants deserves to be quashed and set aside. Therefore, we proceed to pass following order :

ORDER

- 1] The criminal application stands allowed.
- 2] Relief is granted in terms of prayer clause (B).
- 3] Rule made absolute in those terms.

[K.K. SONAWANE]
JUDGE.

[T. V. NALAWADE]
JUDGE

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