

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

CRIMINAL APPLICATION NO. 1386 OF 2019

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| 1 | Nikhil s/o. Vijay Chavan,
Age 32 years, Occu. Unemployed. | |
| 2 | Sou. Prabhadevi w/o. Vijay Chavan,
Age 52 years, Occu. Household, | |
| 3 | Vijay s/o. Sakharam Chavan,
Age 59 years, Occu. Service, | |
| 4 | Rohini Gaurishankar Wadmare,
Age 41 years, Occu. Service,
No. 1 to 4 are R/o. Snehanagar, Beed,
Taluka and District Beed. | |
| 5 | Shweta d/o. Ganesh Pagare,
Age 28 years, Occu. Service,
R/o. Sharma Sadana Working Women's
Hostel, Opp. To Kardinal Gracious High
School, Government Colony,
Bandra (East), Mumbai – 400051. | |
| 6 | Ajinkya s/o. Ganesh Pagare,
Age 25 years, Occu. Education,
R/o. Plot No.48, Mukundnaga,
Mukundwad, Aurangabad. | |
| 7 | Amol @ Munna s/o. Vishnupant,
Age 41 years, Occu. Labour,
R/o. Mali Ves Subhash Road Beed,
Taluka and District Beed. | .. Applicants |

VERSUS

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|---|---|----------------|
| 1 | The State of Maharashtra
Through City Police Station,
Beed. | |
| 2 | Shilpa @ Pranali w/o. Nikhil Chavan,
Age 28 years, Occu. Household,
Panchashilnagar, Beed,
Taluka and District Beed. | .. Respondents |

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Mrs. Sanghmitra Wadmare, Advocate for Applicants.
Mr. D. R. Kale, APP for Respondent No.1 - State.
Mr. D. R. Kale, Advocate for Respondent No.2

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

DATED : 6th 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. 50 of 2019 registered at City Police Station, Beed, for the offence punishable under Sections 498-A, 354, 323, 504 and 506 read with Section 34 of the Indian Penal Code ("IPC").
3. Prosecution case, in nut-shell, is that – the complainant Shilpa @ Pranali Nikhil Chavan approached to the Beed City Police Station, District Beed, on 20-03-2019 and ventilated the grievance that her marriage was solemnized with the applicant No.1 Nikhil Chavan, on 20-04-2018. After the marriage, she joined company of husband at her matrimonial home in joint family of her husband, in-laws and others. According to complainant, initially for about one month after the marriage, she received good treatment from the husband and his relatives. Thereafter, complainant Shilpa had visited to her parental house on the occasion of festival of month of '*Dhonda*' (*Adhikmas*). Her husband Pravin came to her parental house to fetch wife Shilpa. Thereafter, spouses returned to matrimonial home. But, the in-laws of Shilpa used to scold her for not bringing any gold ornaments from her parents on the occasion of "*Dhonda*" festival. The husband and in-laws of Shilpa placed demand of Rs.2,00,000/- and insisted the wife Shilpa to bring money from her parents. The applicant No. 3 – father-in-law

attempted to indulge in the activities of molestation of daughter-in-law the complainant -Shilpa. But, she refused to yield his advances. There were continuous torture and harassment to the wife on account of unlawful demand of money. Eventually, the circumstances constrained wife Shilpa to approach to the Police to lodge report. Pursuant to FIR, Police of Beed city Police Station registered the crime and set the penal law in motion against applicants.

4. Pending the investigation, the applicant preferred the present application seeking 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. 50 of 2019.

5. Learned counsel for applicants submits that there were no physical and mental cruelty to the complainant Shilpa, 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 Shilpa on the part of applicants. All the allegations are general and vague in nature. The applicants No. 4 to 7 are the distant relatives residing separately from husband and in-laws of complainant Shilpa. They had no any reason to cause any interference in the marital life of spouses and in no manner they could be beneficiaries of the alleged mental and physical cruelty to the complainant Shilpa. He further submitted that the allegations nurtured on behalf of complainant in the FIR are baseless and stray allegations. The complainant roped the applicants 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 the objections to the contentions propounded on behalf of applicants and submit that recitals in the FIR discloses the mental and physical cruelty meted out to the complainant Shilpa 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. The in-laws and other relatives used to instigate husband for cruelty to complainant Shilpa. The learned counsel for complainant- Shilpa filed affidavit-in-reply on record in support of her claim.

7. Having given anxious consideration to the arguments advanced on behalf of both sides, this Court was reluctant to nod in favour of applicants No. 1 to 3 to exercise inherent powers under Section 482 of Cr.P.C. Eventually, learned counsel for applicants No. 1 to 3 seeks leave to withdraw the proceedings to their extent only. Accordingly, leave was granted and applicants No. 1 to 3 were allowed to withdraw their application for relief to exonerate from the charges made against them in FIR.

8. In regard to allegations nurtured against applicants No. 4 to 7, we find that allegations cast on behalf of complainant Shilpa against these distant relative are vague and general in nature. There are no specific allegations in regard to their overt-act for maltreatment and harassment to the complainant Shilpa. There were no detail particulars given in the FIR about participation or role played by these applicants No. 4 to 7 for their act of humiliation or insult to the complainant on account of her character. The allegations about scolding, etc. on the

part of applicants No. 4 to 7 all are 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 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."*

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. 4 to 7. It would be an futile efforts and 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 him 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 3, namely, Nikhil S/o Vijay Chavan, Sow. Prabhadevi W/o Vijay Chavan and Vijay S/o Sakharam Chavan stands disposed of as withdrawn.
3. Application in respect of applicants No. 4 to 7, namely, Rohini Gaurishankar Wadmare, Shweta d/o Ganesh Pagare, Ajinkya S/o Ganesh Pagare and Amol @ Munna S/o Vishnupant stands allowed.
4. The penal proceeding initiated against applicants No. 4 to 7, namely, Rohini Gaurishankar Wadmare, Shweta d/o Ganesh Pagare, Ajinkya S/o Ganesh Pagare and Amol @ Munna S/o Vishnupant, bearing FIR No. 50 of 2019, for the offences punishable under Sections 498-A, 354, 323, 504 and 506 read with Section 34 of IPC registered with Beed City Police Station, District Beed, 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