

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

CRIMINAL APPLICATION NO. 1483 OF 2019

- 1 Surendra S/o. Bhagwan Kasole,
Age : 41 years, Occ. Service,
- 2 Bhagwan S/o Bhanudas Kasole,
Age : 76 years, Occ. Agri.,
- 3 Sumanbai W/o. Bhagwan Kasole,
Age : 65 years, Occ. Service,
- 4 Ravindra S/o Bhanudas Kasole,
Age : 45 years, Occ. Agri.,
- 5 Ramnath S/o Bhanudas Kasole,
Age : 65 years, Occ. Agri.,
- 6 Chagabai W/o Ramnath Kasole,
Age : 60 years, Occ. Agri.,
- No. 1 to 6 R/o. Somthane (Nalawade),
Tq. Pathardi, Dist. Ahmednagar
- 7 Bhausaheb S/o Namdeo Wandekar
Age : 46 years, Occu. Service,
- 8 Ranjana @ Sunita W/o Bhausaheb
Wandekar
Age : 43 years, Occu. Housewife,
- 9 Ranjit S/o Raosaheb Barhate
Age : 42 years, Occu. Service,
- 10 Minabai w/o Ranjit Barhate
Age : 40 years, Occu. Housewife,
No. 7 to 10 R/o Shree Shilp,
Plot No. 2, Road No. 7, Sector 9,
New Panvel, Raigad (Maharashtra)
- 11 Suresh S/o Rajaram Pimpale
Age : 42 years, Occu. Service,
R/o : Flat No. A-33, Gopal Apartment,
Govind Nagar, Beed.

... Applicants

VERSUS

1 The State of Maharashtra
Through its Investigation Officer,
Satara Police Station, Aurangabad
Tal. And Dist- Aurangabad.

2 Vidya w/o. Surendra Kasole
Age : 32 years, Occu. Housewife,
R/o. : Kasliwal Marwal, East Building
H, Plot No. 202, Satara Pariswar,
Aurangabad,
Mob. No. 9076030149

... Respondents

...
Mr. Narayan B. Narwade, Advocate for Applicants.
Ms. V.S. Chaudhary, APP for Respondent No. 1
Mr. V.U. Panpatil, Advocate for Respondent No. 2
...

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

DATED : 1st JULY, 2019.

ORAL JUDGMENT :- (Per: K.K.SONAWANE, J.)

1. Rule. Rule made returnable forthwith. Heard finally, 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 No. 0152 of 2019 registered at Satara Police Station, Aurangabad, District Aurangabad for the offence punishable under Sections 498-A, 354-D, 323, 504 and 506 read with Section 34 of Indian Penal Code ("IPC") and criminal proceeding bearing RCC No. 1384 of 2019 initiated pursuant to aforesaid FIR.

3. The prosecution case in nutshell is that the first informant – complainant Vidya Kasole approached to the Police of Satara Police Station, Aurangabad, District Aurangabad on 06-04-2019 and ventilated the grievance that her marriage was solemnized on 31-01-2004 with applicant No. 1 – Surendra Bhagwan Kasole. The applicant Nos. 2 and 3 are her in-laws, applicants No. 4 and 5 are cousin father-in-laws and applicant No. 6 is cousin mother-in-law, applicants No. 8 and 10 are sister-in-laws of the complainant. The applicants No. 7 and 9 are the husband of applicants No. 8 and 10. The applicant No. 11 is the brother-in-law of the complainant. It has been alleged that after marriage, since inception, she was being harassed and maltreated on the ground of conception. The applicants also made a demand of Rs.5,00,000/- from her parents for starting a new business of agricultural seeds. According to prosecution, the in-laws and other applicants i.e. cousin father-in-laws and mother-in-law and sister-in-laws used to mentally and physically harassed her for demand of money. It has been alleged that applicant No. 11- Suresh Pimpale insisted her for physical relations, but she did not give response to him and taking umbrage of the same he used to harass her. It has been alleged that husband with the help of some *Gund's* attempted to assault and driven her out of the house. Thereafter, complainant-wife made complaint to Women Grievance Redressal Forum and as per their advised she has filed the present complaint.

4. Pursuant to FIR, Police of Satara Police Station, Aurangabad District Aurangabad registered the crime and set the penal law in motion. Investigating Officer recorded statements of witnesses

acquainted with facts of the case. He collected the relevant documents of matrimonial dispute between the spouses. After completion of procedural formalities, Investigating Officer filed charge-sheet bearing RCC No. 1384 of 2019 pending before the learned Magistrate at Aurangabad.

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 an *malafide* intention to harass the applicants. There were no specific allegations about maltreatment and torture meted out to the complainant - wife. According to learned counsel, all the applicants are residing separately from the husband of complainant. The applicants No. 2 to 11 have no any concern with the marital life of applicant No. 1 and complainant-wife. They have no any reason to cause interference into the domestic affairs of the spouses. The complainant did not mention any specific instances of maltreatment at the hands of applicants. According to learned counsel, the allegations made in the FIR are vague and general in nature. The present complaint is nothing but an abuse of process of law. It would unjust and improper to compel the applicants to face the agony of trial. In case, the present penal proceeding is not quashed, it would cause serious prejudice and injustice to the applicants.

6. The learned APP as well as learned counsel for respondent No. 2-first informant raised objection to 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 under Sections 498-A, 354-D, 323, 504 and 506 read with Section 34 of the IPC. The complainant categorically described the episode of her maltreatment and torture at the hands of applicants. There were unlawful demand of money from the applicants for starting business of agricultural seeds. There are accusation against applicant No.11 for sexual harassment to the complainant.

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 and 11 for exercise of inherent powers under Section 482 of Cr.P.C. Eventually, learned counsel for applicants seeks leave to withdraw the proceedings to the extent of applicants No. 1 and 11. Accordingly, leave was granted for withdrawal of application to the extent of applicants No. 1 and 11.

8. In regard to allegations nurtured against applicants No. 2 to 10, we find that the allegations cast on behalf of complainant - wife against cousin father-in-laws, cousin mother-in-law, sister-in-laws and their husbands are vague and general in nature. There are no specific allegations attributing overt-act of applicants No. 2 to 10 to maltreat and harass the complainant - wife. There were no detail particulars given in the FIR about participation of these applicants No. 2 to 10 for their act of cruelty to the complainant or for demand of money. The allegations about cruelty by these applicants are found stray and sweeping in nature. There is no propriety to compel the applicants No. 2 to 10 to face the agony of proceedings pending before the trial Court.

9. 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 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. It is worth to mention that the Honourable Apex Court in the case of **Madhavrao Jiwaji Rao Schindia and another Versus Sambhajirao Chandojirao Angre and others**, reported in **AIR 1988 SC 709**, 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."

13. 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.

14. In the instant case, it would be unjust and improper to allow the prosecution to proceed against applicants No. 2 to 10. 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 of applicants No. 2 to 10 is totally bleak. The ends of justice would be served by ensuring that the applicants No. 2 to 10 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

- i. The Criminal Application is partly allowed.
- ii. Application in respect of applicants No. 1 and 11 stands disposed of as withdrawn.
- iii. Application in respect of applicants No. 2 to 10 is hereby allowed.
- iv. The penal proceeding initiated against applicants No. 2 to 10 bearing FIR No. 0152 of 2019, for the offences punishable

under Sections 498-A, 354-D, 323, 504 and 506 read with Section 34 of IPC, registered with Satara Police Station, Aurangabad, District Aurangabad, and criminal proceeding bearing RCC No. 1384 of 2019 initiated pursuant to aforesaid FIR, is ordered to be quashed and set aside.

- v. Rule is made absolute partly in terms of prayer clause "B".
- vi. Criminal Application is disposed of in above terms.
- vii. No order as to costs.

Sd/-

[K. K. SONAWANE]
JUDGE

Sd/-

[T.V. NALAWADE]
JUDGE

MTK