

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2345 OF 2018

1. Usha Narsiha Thombare,
Age : Major, Occ.: Household,
R/o : Kaij Road Kallamb, Tq. Kallamb,
Dist: Osmanabad.
2. Narsiha s/o Abasaheb Thombre,
Age : Major, Occ.: Agri & Business,
R/o : Kaij Road Kallamb, Tq. Kallamb,
Dist : Osmanabad.

Vs.

1. The State of Maharashtra,
Through its M.I.D.C. Police Station Latur,
Tq. & District : Latur.
2. Manisha Siddheshwer Pawar,
Age 32 years, Occ.: Household,
R/o : Sai, M.I.D.C. Latur,
Tq. & Dist. : Latur.

Advocate for the Applicants : Mr. S. G. Jadhwar
APP for the Respondent – State : Mr. A. S. Shinde
Advocate for the Respondent No. 2 : Mr. M. K. Bhosale

**CORAM : T. V. NALAWADE &
K.K. SONAWANE, JJ
DATE : 18TH JUNE, 2019.**

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

1. Heard. Rule made returnable forthwith. Matter is taken up for finality on merit with the consent of learned counsel for the

parties.

2. The present application is filed by applicants under Section 482 of Cr. PC, seeking relief to quash and set aside the first information report bearing Crime No. 150/2018, registered at MIDC Police Station, Latur for the offences under section 354, 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

3. The factual aspects giving rise to the present application in brief, are as under :

The first informant Manisha Siddheshwar Pawar filed report to the MIDC Police Station, Latur and ventilated the grievances that her marriage was solemnized with Siddheshwar Balaji Pawar on 28/5/2016. The present applicant No. 1 Usha is her sister-in-law where as the applicant No. 2, Narsiha is the husband of applicant No. 1 - Usha. It has been alleged that at the time of marriage, applicants had given false information to the parents of complainant Manisha that her husband Siddheshwar was a businessman and he was running a firm of Chartered Accountant at Pune. They had shown fake and fabricated documents to the complainant and her parents. After marriage, the complainant

joined the company of husband for co-habitation at Pune. She resided at Pune with the husband for about 8-9 months and at that time she came to know that her husband Siddheshwar did not possess degree as C.A., but he is in service somewhere else on a very meager salary. Moreover, her husband Siddheshwar was suffering from illness of depression and he used to take tablets for the same. It has been alleged that her mother-in-law as well as sister-in-law used to beat and torture the complainant and sent her to the parents home at Nanded. However, during wedlock the complainant begotten one daughter from husband Siddheshwar. There was a demand of Rs. 3.50 lacs to establish business of husband at Latur. The husband and in-laws of the complainant as well as maternal uncle – Madhav Gaikwad used to torture and maltreat the complainant for demand of money. But the parents of complainant could not cough up the demand due to financial crises. It has also alleged that her father-in-law attempted to molest sexually to her minor daughter. Fed up with continuous torture and indecent conduct of father-in-law with her minor daughter, the complainant approached to the police and filed the report.

4. Pursuant to FIR, police of MIDC PS, Latur registered the crime and set the penal law in motion. Pending investigation, the applicants preferred present application to quash and set aside the penal proceeding initiated against them, by invoking powers u/s 482 of the Cr.PC.

5. Learned counsel for the applicant vehemently submits that the applicants are innocent of the charges pitted against them. They have not committed any crime but they are falsely implicated in this case. According to the applicants, there are no specific allegations about the maltreatment and harassment to the complainant, as contemplated u/s. 498-A of IPC. All the allegations are general and vague in nature. The applicants are the sister and brother in-law of the husband of complainant. They are residing at Kallamb, District Osmanabad. They have no reason to cause an interference in the domestic affairs of the spouses. Moreover, they are not beneficiaries of the marital discord between the complainant and her husband. According to learned counsel, the present complaint against the applicants is nothing but an abuse of process of law and deserves to be quashed and set aside.

6. In refutal, the learned APP as well as learned counsel for respondent No. 2 – first informant, raised objection and submits that the first informant has categorically described the maltreatment and harassment on the part of the applicants in the FIR. The applicant No. 1 Usha played mischief and cheated the complainant by saying that her brother – i. e. husband of the complainant has completed C.A. education and he is doing business at Pune. The applicants also abused and assaulted the complainant for demand of money. There are specific allegations in the FIR and therefore, interference at the behest of the applicant is unwarranted.

7. Having given anxious consideration to the argument advanced on behalf of both sides, it appears that the arguments advanced by Mr. Jadhwar, learned counsel for the applicant much more sustainable and considerable one. Perusal of the FIR adumbrates that the allegations cast against the present applicants are general and vague in nature. The allegations about the mischief of projecting the husband Siddheshwar as a Chartered Accountant doing business at Pune, cannot be considered as cruelty under Section 498-A of IPC. Moreover, complainant cohabited with the

husband Siddheshwar till lodging of FIR i.e. 1/5/2018. She cast allegations about molestation of her daughter against the father-in-law. No specific over acts are attributed to the present applicants for torture or harassment to the complainant for demand of money. There are no details in the FIR about participation of present applicants for the act of maltreatment and harassment to the complainant.

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 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.”

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.*

9. 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.”

10. In the instant case, it would be unjust and improper to allow the prosecution to proceed against the 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 the applicants deserves to be quashed and set aside. Therefore, we proceed to pass following order :

ORDER

1. The Criminal Application is allowed.
2. Relief is granted in terms of prayer clauses B. and B-1.
3. Rule is made absolute partly in terms of prayer clause "B".
- 4 Criminal Application is disposed of in above terms.
5. No order as to costs.

[K.K. SONAWANE]
JUDGE.

[T. V. NALAWADE]
JUDGE

Grt/-