

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

CRIMINAL APPLICATION NO. 2843 OF 2018

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| 1 | Sushilkumar S/o Bhaskar Jamdhade,
Age: 30 years, Occu. Service,
R/o : Kasli, Tq. Kopergaon, Dist.
Ahmednagar. At present Jagdish Nagar,
Dhule, Tq. & Dist. Dhule. | |
| 2 | Bhaskar S/o Nivrutti Jamdhade,
Age: 65 years, Occ: Retired, | |
| 3 | Shobha W/o Bhaskar Jamdhade,
Age : 58 years, Occ. Household,
Both R/o Paregaon Road, Padmawati Nagar,
Yeola, Tq. Yeola, Dist. Nashik. | |
| 4 | Sarika W/o Nipun Gaikwad,
Age : 28 years, Occ. Service,
R/o Kodoli, Anand Nagar,
Tq. Panhala, Dist. Kolhapur. | |
| 5 | Dipika W/o Ramdas Ahire,
Age: 33 years, Occ. Household, | |
| 6 | Ramdas S/o Narayan Ahire,
Age : 37 years, Occu. Service,

Both R/o : G/F-2 Shantadurga Cooperative
Housing Society, Ambekhand, verem
Bardez Goa. | ..APPLICANTS
(Ori. Accused) |

VERSUS

- | | | |
|---|--|--------------------|
| 1 | The State of Maharashtra
Through Police Inspector Shrirampur Police
Station, Tq. Shrirampur, Dist. Ahmednagar. | |
| 2 | Sujata W/o Sushilkumar Jamdhade,
Age : 29 years, Occ. Service,
R/o: C/o: Kamalkunj, Navjeevan, Housing
Society, Near Methodist Church Ward No.1,
Shrirampur, Dist. Ahmednagar. | RESPONDENTS |

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Mr. S.B. Kadu, Advocate for Applicants.
Mr. D.R. Kale, APP for Respondent No. 1.
Mr. R.R. Karpe, Advocate for Respondent No. 2.

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

DATED : 27th JUNE, 2019.

ORAL JUDGMENT :- (Per: K.K.SONWANE, 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. 0525 of 2018 registered at Police Station, Shrirampur, Ta. Shrirampur, District Ahmednagar for the offence punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of Indian Penal Code ("IPC") and criminal proceeding bearing RCC No. 227 of 2018 initiated pursuant to aforesaid FIR.

3. The prosecution case in nutshell is that the complainant Sujata Jamdhade approached to the Police of Police Station, Shrirampur, Tq. Shrirampur, District Ahmednagar, on 01-08-2018 and ventilated the grievance that her marriage was solemnized on 27-12-2012 with applicant No. 1 – Sushilkumar Jamdhade. The applicant Nos. 2 and 3 are her in-laws whereas applicants No. 4 and 5 are sister-in-laws of the complainant. The applicant No. 6 is the husband of applicant No. 5. It has been alleged that after marriage, complainant - wife joined the company of husband for cohabitation at Yeola, District Nashik. She was residing in the joint family of her husband, in-laws, sister-in-laws etc. According to complainant, initially for about one or two months, inmates of matrimonial home treated her properly. The applicants used to tease her that they did not like her but they gave consent for marriage only at the behest of applicant

-Sushilkumar. It has been alleged that they used to maltreat and harass the complainant-wife on account of domestic reason. She was also assaulted and abused by the applicants and others. The inmates of her matrimonial home (i.e. applicants) asked her to bring amount of Rs.80,000/- from her parents for purchasing vehicle and agricultural operation. It has been alleged that the complainant was subject to cruelty for satisfaction of demand of money. The complainant ventilated the grievance that when she was pregnant, she was being harassed physically and mentally by the applicants. She delivered a female child, but the baby was found dead after birth. The applicant used to scold the complainant being a woman of misfortune. The applicants once again placed demand of Rs.5,00,000/- for transfer of applicant - husband from Dhule to Rahata, District Ahmednagar. The father of complainant-wife could not satisfy the demand, she was being maltreated and harassed by the appellants. Thereafter, she was driven out of the house. It has been alleged that when father of complainant-wife tried to give understanding to the inmates of matrimonial home to allow the complainant - wife, for cohabitation, that time the applicants disclosed that if amount of Rs. 5,00,000/- is not paid they would not allow the complainant - wife for cohabitation. It has been alleged though the complainant-wife made efforts for cohabitation, but the applicants did not budge to her request. Eventually, she approached to the Police Station and filed report.

4. Pursuant to FIR, Police of Police Station Shrirampur, District Ahmednagar 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 FIR and the penal proceedings initiated against them bearing RCC No.

227 of 2018, pursuant to impugned FIR.

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. Learned counsel further added that wife - respondent No. 2 resided separately since year 2017 at her parents house. Applicants No. 2 to 6 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. There was no demand of any kind. 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 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 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 unlawful demand of money from the applicants to purchase the vehicle and also for transfer of applicant No.1 husband.

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 3 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 to 3. Accordingly, leave was granted for withdrawal of application to the extent of applicants No. 1 to 3.

8. In regard to allegations nurtured against applicants No. 4 to 6, we find that the allegations cast on behalf of complainant - wife against sister-in-laws and husband of one of the sister-in-laws, are vague and general in nature. There are no specific allegations attributing overt-act of these applicants to maltreat and harass the complainant - wife. There were no detail particulars given in the FIR about participation of these applicants No. 4 to 6 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.

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 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. It is worth to mention that the Honourable Apex Court in the case of **Madhavrao Jiwaji Rao Schindia and another Versus Sambhajirao Chandrojirao 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. 4 to 6. 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. 4 to 6 is totally bleak. The ends of justice would be served by ensuring that the applicants No. 4 to 6 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 to 3 stands disposed of as withdrawn.
- iii. Application in respect of applicants No. 4 to 6 is hereby allowed.
- iv. The penal proceeding initiated against applicants No. 4 to 6, bearing FIR No. 0525 of 2018, for the offences punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of IPC, registered with Police Station, Shrirampur, Ta. Shrirampur, District Ahmednagar, and criminal proceeding bearing RCC No. 227 of 2018 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

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