

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

CRIMINAL APPLICATION NO. 3186 OF 2018

- 1 Namdeo Popat Jadhav,
Age : 28 years, Occu. Service,
- 2 Popat Punjaji Jadhav,
Age : 50 years, Occu. Agril.,
- 3 Suman Popat Jadhav,
Age : 45 years, Occu. Housewife,
- 4 Dnyaneshwar Popat Jadhav,
Age : 35 years, Occu. Agril.,
- 5 Yogita Dnyaneshwar Jadhav
Age : 30 years, Occu. Housewife,
- 6 Ganpat Punjaji Jadhav,
Age 67 years, Occu. Agril.,
All R/o. Bramhani, Taluka Rahuri,
District Ahmednagar.

APPLICANTS
.. (Original accused)

VERSUS

- 1 The State of Maharashtra,
Through Police Station Officer,
Police Station, Rahuri, Taluka Rahuri,
District Ahmednagar.
- 2 Sayali W/o. Namdeo Jadhav,
Age : 23 years, Occu. Housewife/Education,
R/o. Bramhani, Rahuri, Taluka Rahuri,
District Ahmednagar.
Now resided at C/o. -
Prabhakar Karbhari Vikhe, Loni Bk.,
Taluka Rahata, Distric Ahmednagar.

RESPONDENTS
(R.No.2 - Original
Complainant)

...
Mr. Vivek V. Tarde, Advocate for Applicants.
Mrs. V. N. Patil Jadhav, APP for respondent No. 1-State.
Mr. Rahul A. Tambe, Advocate for Respondent No. 2.

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

DATED : 24th SEPTEMBER, 2019.

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

1. Rule. Rule made returnable forthwith. Heard finally, with the consent of learned counsel appearing for the parties.

2. The applicants - original accused 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. 0519 of 2018 registered at Rahuri Police Station, Taluka Rahuri, District Ahmednagar, for the offence punishable under Sections 498-A, 323, 504 and 406 read with Section 34 of Indian Penal Code ("IPC") as well as the criminal proceeding bearing Charge-sheet No. 22 of 2019 (RCC No. 10 of 2019) filed pursuant to aforesaid Crime.

3. The prosecution case in short compass is that the first informant – complainant Sayali Namdeo Jadhav, on 31-07-2018 approached to the Police of Rahuri Police Station, Taluka Rahuri, District Ahmednagar, and ventilated the grievance that her marriage was solemnized on 19-01-2017 with applicant No. 1 – Namdeo Jadhav. The applicants No. 2 and 3 are in-laws, whereas, applicant No. 4 is the brother-in-law and applicant No.6 is the cousin father-in-law of complainant-wife. The applicant No.5 is wife of applicant No.4. After marriage, complainant-wife joined the company of husband for cohabitation at Rahuri. Initially, for about three months, the husband and other inmates of matrimonial home behaved with complainant in proper manner. The husband Namdeo was in service at Kalyan. The husband used to visit at Rahuri from his service place at Kalyan. He was saying to the complainant-wife that your parents did not pay sufficient dowry and not honoured them in proper manner in the marriage. According to complainant, the applicants-accused used to keep her unfed and harassed her mentally and physically on account of domestic

work. She was driven out of the house on 28-03-2017. It has been alleged that the complainant-wife time and again called her father on cellphone and disclosed him about the ill-treatment. The father and relatives made endeavour to give understanding to the husband and in-laws to treat the complainant in proper manner and left her at matrimonial home for cohabitation. It has been alleged that after about fifteen days, thereafter, the complainant-wife informed her father on phone and divulged that the inmates of her matrimonial home maltreated her and put demand of Rs.2,00,000/- (Rs. Two Lakhs Only) for purchase of plot. According to complainant, her father by obtaining loan from *Sai Aadarsh Pat-Sanstha, Rahuri*, paid the aforesaid amount to the applicant. But, her ordeals did not come to an end. The applicant-husband told the complainant-wife that if she wants to reside at Kalyan with him, she should bring Rs.32 Lakhs for purchasing the flat. Thereupon, she disclosed to the applicant-husband that economical condition of her father was not sound, and he could not satisfy the demand. The applicant-husband thereafter maltreated the complainant, she was to face starvation. Eventually, the husband send the complainant-wife at her Uncle's house. After compromise, the complainant-wife returned back for cohabitation at her marital home. But, once again, the inmates of matrimonial home, after removing ornaments from her person, beaten-up and driven her out of the house. Thereafter, she went to Women Redressal Grievances and filed complaint. But, it did not evoke fruitful result. At last, she filed report to the Police of Rahuri Police Station for penal action against the present applicants.

4. Pursuant to FIR, Police of Rahuri Police Station, Taluka Rahuri, District Ahmednagar, registered the crime and set the penal law in motion. Pending the investigation, the applicants moved present application by invoking remedy under Section 482 of the Cr.P.C. for relief to quash and set aside the impugned FIR. But, meanwhile, Investigating Officer after completion of investigation filed the charge-sheet. The applicants, simultaneously, prayed to absolve from the charges pitted against them in the proceedings bearing Charge-sheet No. 22 of 2019.

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 false 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. Learned counsel further added that the quarrelsome behaviour of wife created tense atmosphere in the house. She has also filed NC No.388 of 2018 on 08-08-2018. She is not interested for cohabitation with husband. Learned counsel further added that the 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 instance of maltreatment at the hands of applicants. The learned counsel submits that the allegations made in the FIR are vague and general in nature. There was no demand of any kind on the part of applicants. According to learned counsel, applicant No. 4 is brother-in-law, whereas, applicant

No.5 his wife and applicant No.6 is cousin father-in-law of complainant-wife. They all are residing separately. He submits that 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 opposed the contentions put-forth on behalf of applicants. They submit that the allegations of ill-treatment nurtured on behalf of complainant in the FIR disclose commission of crime under Sections 498-A, 323, 504 and 406 etc. of IPC. The complainant categorically described the episode of her maltreatment and torture at the hands of applicants. Prior to this, complainant-wife also filed NC proceedings against the applicants. It seems that despite such unbearable harassment, she is interested in cohabitation. There were allegations of physical and mental torture to the complainant for unlawful demand of amount on the part of applicants.

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 the applicants seeks leave to withdraw the proceedings against applicants No.1 to 3 and leave was granted to their extent only.

8. In regard to allegations nurtured against applicants No. 4 to 6, we find that the allegations cast on behalf of complainant - wife against

applicants No. 4 to 6 are totally 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 applicants No. 4 to 6 for their act of cruelty to the complainant or for demand of money, etc. The allegations about cruelty at the hands of applicants are found stray and sweeping in nature. The applicant No. 4 is brother-in-law of the complainant- wife and applicant No.5 is his wife as well as applicant No.6 is cousin father-in-law. They are residing separately from the spouses. They have no any reason to cause interference into the domestic affairs of the spouses. Therefore, it can be perceived that these applicants have no reason to cause interference in the marital life of spouses. It is fallacious to appreciate that they are beneficiaries from the marital discord between the spouses.

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 Scindia 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 light of aforesaid expositions of law, in the instant case, it would be unjust and improper to allow the prosecution to proceed further against applicants No. 4 to 6. It would be an futile efforts and would cause injustice to them, if they are compelled to face agony of

trial before criminal Court. It would also dissipate the precious time of Court of law as the possibility of their 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 litigation before the Criminal Court. Hence, penal proceeding initiated against applicant Nos. 4 to 6 deserves to be quashed and set aside. Therefore, we proceed to pass following order :

ORDER

- i. The Criminal Application is partly allowed.
- ii. The Criminal Application in respect of applicants No. 1, 2 and 3 stands disposed of as withdrawn.
- iii. The Criminal Application in respect of applicants No. 4, 5 and 6 is allowed.
- iv. The penal proceeding initiated against applicants No. 4 to 6 bearing FIR/Crime No. 0519 of 2018, for the offences punishable under Sections 498-A, 323, 504 and 406 read with Section 34 of IPC, registered with Police Station, Rahuri, Taluka Rahuri, District Ahmednagar, as well as criminal proceeding bearing Charge-sheet No. 22 of 2019 (RCC No. 10 of 2019) pursuant to aforesaid crime, is ordered to be quashed and set aside to their extent only.
- v. Rule is made absolute in terms of prayer clause "B".
- vi. The Criminal Application is disposed of in above terms.
- vii. No order as to costs.

Sd./-

[K. K. SONAWANE]
JUDGE

Sd./-

[T.V. NALAWADE]
JUDGE