

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

CRIMINAL APPLICATION NO. 3374 OF 2018

- 1 Santhosh S.o Yadaiah Kompally,
Age : 34 years, Occ: Unemployed
- 2 Yadaiah s/o Venkaiah Kompally,
Age : 62 years, Occu: Retired,
- 3 Jaya w/o Yadaiah Kompally,
Age : 56 years, Occ:Household,
All R/o: Tarnaka, Galli No. 13,
Nacharam, Hyderabad.
- 4 Satish s/o Yadaiah Kompally,
Age: 33 years, Occ: Service,
R/o: Laurel Bluff Circle, High
Point North Carolina State,
United State of America.
- 5 Sandhya W/o Venkatesh Goud,
Age: 36 years, Occu: Household,
- 6 Venktesh W/o Bongulla Goud,
Age: 42 years, Occu. Service.
Petitioner Nos. 5 and 6, R/o DD
Colony, Baghamberpet, Hyderabad
- 7 Sharada w/o Ravi Goud,
Age: 45 years, Occu. Business,
- 8 Ravi s/o Mallewar Goud,
Age 51 years Occu: Business,
Petitioner Nos. 7 & 8 R/o Deepnagar,
Purna Road, Nanded Tq. & Dist.
Nanded.

..APPLICANTS
(Ori. Accused)

VERSUS

- 1 The State of Maharashtra, Through
Investigation Officer, Bhagyanagar,
Police Station, Nanded, Tq. And Dist.
Nanded.
- 2 Hema w/o Santosh Kompally,
Age: 30 years, Occu: Household,
R/o D/o Hirachand Sayanna Bhurewar,
Veer Savarkar Nagar,
Wadi (bk), Nanded, Tq. & Dist.
Nanded.

RESPONDENTS

...
Mr. V.S. Kadam, Advocate for Applicants.
Mr. S.J. Salgare, APP for Respondent No. 1
Mr. M.V. Ghatge, Advocate for Respondent No. 2
...

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

DATED : 19th 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. 222 of 2018 registered at Bhagyanagar Police Station, Nanded District Nanded, for the offences punishable under Sections 498-A, 294, 323, 504 and 506 read with Section 34 of Indian Penal Code ("IPC") and criminal proceeding bearing charge-sheet No. 70 of 2018 initiated pursuant to aforesaid FIR.

3. The prosecution case in short compass is that, the first informant Hema w/o Santosh Kompally, on 15-07-2018 approached to the Police of Bhagyanagar Police Station, Nanded District Nanded and filed the report that her marriage was solemnized on 15-02-2017 with applicant No. 1-husband at Hyderabad. Applicants No.2 and 3 are in-laws whereas applicant No.4 is the brother-in-law and applicant No.5 is sister-in-law of complainant – wife. Applicant No. 6 is husband of applicant No.5. The applicants No. 7 and 8 are the distant relatives of

the husband of complainant. According to complainant, after marriage she joined the company of husband in the joint family comprising in-laws and brother-in-law at Nacharam Hyderabad (Telangana). She received the proper treatment for some days of marriage from husband and in laws. But after some days the complaint was subjected to mental torture on trifle reasons. The applicants started demanding money from her parents. According to the complainant, the inmates of matrimonial home placed demand of Rs.50,000/- and on some occasion Rs. 1,00,000/- from her parents. But, the demand was not satisfied and on that count they used to assault and abused in filthy language. The applicants No. 7 and 8 also used to instigate the inmates of matrimonial home for maltreatment and harassment to fulfill the demand of money from father of complainant. The applicant-husband was demanding amount of Rs. Five lakhs for contract business. But when the complainant failed to satisfy demand the husband tortured the wife by saying that she has an black complexion and he wanted to perform another marriage by accepting huge dowry. The complainant wife was beaten up and abused by the husband. They kept her unfed. The other applicants i.e. in-laws , sister-in-law and brother-in-law used to instigate the applicant husband for such ill-treatment. According to complainant, in the marriage of brother in-law -Satish, the applicants did not allow the parents of complainant to attend the marriage ceremony. Moreover, she was also neglected by them in marriage. It has been alleged that on 24-06-2018, the applicants asked the complainant to bring Rs. Five Lakhs from her father as he is going to retire from service and he would get handsome amount towards

pensionary benefits. It has been alleged that applicant left the complainant wife at the house of parents and threatened her to bring money otherwise she would not be allowed for cohabitation. Thereafter the complainant on 26-06-2018 filed complaint to Police. Taking umbrage of the Police complaint, the applicants on 17-07-2018 came to house of parents of complainant, and assaulted and abused the complainant and her parents. They insisted the complainant wife to withdraw the police complaint. In view of behaviour of applicants the complainant has an apprehension of her life. Eventually, she approached to the Police and filed the present report for penal action against the applicants.

4. Pursuant to FIR, Police of Bhagyanagar Police Station, Nanded District Nanded registered the crime and set the penal law in motion. Investigating Officer recorded statements of witnesses acquainted with the facts of the case. Pending the investigation, the applicants moved the present application to quash and set aside the F.I.R. But, meanwhile, the Investigating Officer after completion of investigation filed the charge-sheet. The applicants, simultaneously, prayed to absolve them from the charges pitted against them in the charge-sheet No. 70 of 2018.

5. Learned counsel for applicants vehemently submits that 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 learned counsel, the complainant was not interested in cohabiting with applicant-husband. There were no unlawful demand of

money. There was no any specific allegations against applicants for cruelty as contemplated under Section 498-A of the IPC. The learned counsel submits that applicants No. 4 is brother of applicant and since March, 2017 he is residing at USA for his job. He has no concerned whatsoever with the allegations made in the FIR. The applicant No. 5 is married sister of applicant-husband and since marriage she is residing with her husband i.e. applicant No. 6, who is working as technician in Ordinance Factory at Yeddumailaram Village Medak District Telangana State. Applicants No. 7 and 8 are the distant relatives and mediator for settlement of marriage of the complainant with applicant-husband. Learned counsel submits that applicants No. 4 to 8 are residing separately. Applicants No. 4 to 8 have no any concerned with the marital life of applicant No. 1 and complainant. They have no any reason to cause interference into the domestic affairs of the spouses. All the allegations are general and vague 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. Hence, learned counsel urged to quash and set aside the penal proceeding initiated against 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 and submit that the allegations of ill-treatment nurtured on behalf of complainant in the FIR discloses commission of crime under Sections 498-A, 294, 323, 504 and 506 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 applicants for contractor business and also physical assault as well as abuses in filthy language to the complainant on the part of applicants.

7. We have given anxious consideration to the arguments advanced on behalf of both sides. We have also delved into the relevant documents produced on record as well as factual aspects of the matter. We find that there is no scope for exercise of inherent powers under Section 482 of the Cr.P.C. in favour of applicants No. 1 to 3 as it appears from the FIR that *prima facie* case is made out against them. There are specific allegations cast against husband and in-laws about cruelty as envisaged under Section 498-A of I.P.C. Therefore, we expressed that this Court is not inclined to nod in favour of applicants No. 1 to 3 for grant of relief in their favour. Eventually, learned counsel for applicants No. 1 to 3 seeks leave to withdraw the proceeding to their extent. Accordingly, leave was granted and application to the extent of applicants No. 1 to 3 came to be disposed off as withdrawn.

8. In regard to allegations made against applicants No. 4 to 8, we find that during crucial period of co-habitation of complainant with husband, the applicant No. 4 was not available at matrimonial home of complainant as he was in USA for his job purpose. Applicant No. 5 sister in-law was residing with husband- applicant No. 6 at her matrimonial home. The applicants No. 7 and 8 are the distant relatives. The entire allegations about cruelty are against husband and in-laws. There was reference that applicants No. 4 to 8 instigated the husband and in-laws for mental and physical harassment to the complainant-

wife, but all the aspersion against them are vague, and general in nature. There were no specific instances or details of participation of applicants No. 4 to 8 in the alleged act of cruelty available on record for adverse inference about their involvement into the crime. There are no specific allegations attributing overt-act of applicants No. 4 to 8 to maltreat and harass the complainant. The allegations against applicants No. 7 and 8 are also stray and omnibus in nature. Therefore, it would unjust and improper to compel the applicants No. 4 to 8 to face agony of trial before criminal court following marital discord between 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 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. 4 to 8. 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 these applicants No. 4 to 8 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 dismissed as withdrawn.
- iii. Application in respect of applicants No. 4 to 8 is hereby allowed.
- iv. The penal proceeding initiated against applicants No. 4 to 8 bearing FIR No. 222 of 2018, registered with Bhagyanagar Police Station, Nanded District Nanded, for the offences punishable under Sections 498-A, 294, 323, 504 and 506 read with Section 34 of IPC and criminal proceeding bearing Charge-sheet No. 70 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 clauses "B and BB".
- 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