

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3413 OF 2019**

Arun Madhavrao Garje & anr. ...Petitioners
Versus
State of Maharashtra & anr. ...Respondents

Mr. Subhash Jha, a/w Ms. Sanjana Pardeshi, i/b Law
Global, for the Petitioners.
Ms. Sangita Shinde, APP for the State/Respondent.
Mr. P. P. More, for Respondent no.2.

**CORAM: RANJIT MORE &
N. J. JAMADAR, JJ
DATED: 24th SEPTEMBER, 2019**

PC:-

1. Heard Mr. Jha, the learned Counsel for the petitioners, Ms. Shinde, the learned APP for the State and Mr. More, the learned Counsel for respondent no.2.
2. The petition is filed under Section 482 of the Code of Criminal Procedure, 1973 ("the Code"), for quashing the proceedings of RCC No.6 of 2017, pending on the file of Judicial Magistrate, First Class, Pimpri, Pune. The said case arises out registration of FIR being CR. No.73 of 2016 with Sangvi Police Station, Pune, at the instance of respondent No.2, for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860 ("IPC").

3. The FIR is filed by respondent no.2 against her husband and in-laws. The present petitioner nos.1 and 2 are the original accused nos.3 and 2 i.e. father-in-law and mother-in-law, respectively.

4. Respondent no.2 states that the charge-sheet has already been filed and it is numbered as referred above. We have gone through the charge-sheet and especially the FIR. The FIR is filed on 12nd March, 2016. It discloses that respondent no.2 got married with the son of petitioner no.1 Arun Garje on 16th October, 2006, at Pune. The FIR further alleges that respondent no.2 - complainant was harassed by her husband and in-laws on account of not meeting their demands of money. There are in all 6 to 7 incidents referred to in the FIR regarding such demands. The first incident is of 17th October, 2006. On that day, it is alleged that the in-laws of respondent no.2 - Complainant i.e. petitioners, told the complainant – respondent no.2 that she does not belong to their caste, and had her husband married a girl from their caste, they would have got good amount in dowry. However, the complainant has not paid any dowry and they will never accept the complainant as their daughter-in-law. The second incident is of December, 2006. The complainant has alleged that her in-laws i.e. the petitioners insisted that respondent

no.2 should bring an amount of Rs.5,00,000/- to Rs.6,00,000/- from her father, as complainant's brother-in-law desired to pursue education in a foreign country. It is alleged in the FIR that complainant - respondent no.2 was harassed on account of non-fulfillment of the demand of money. Third incident is of 13th March, 2007. It is alleged that the complainant's in-laws assaulted her because she did not fulfill their demand of money and her belongings were thrown out of the house.

5. After these above stated dowry demands, there are other demands made by the husband of the complainant – respondent no.2.

6. Mr. Jha, the learned Counsel for the petitioners submitted that the FIR is registered on 12th March, 2016 and the stale allegations against the petitioners should not be the ground for refusal to quash the FIR. Mr. Jha also relied upon decision of the Apex Court in the cases of *Thulia Kali vs. The State of Tamil Nadu*¹ and *Preeti Gupta & another vs. State of Jharkhand & another*² and tried to persuade us to quash the proceeding of the subject crime.

7. Mr. More, the learned Counsel for respondent no.2 and

1 (1972) 3 Supreme Court Cases 393.

2 (2010) 7 Supreme Court Cases 667.

Ms. Shinde, the learned APP, opposed the petition. They also submitted that there are allegations in the FIR against the petitioners which disclose the commission of offence punishable under Section 498-A of IPC and, therefore, this Court should not interfere with the subject proceedings in exercise of extra-ordinary jurisdiction.

8. Mr. More, the learned Counsel for respondent no.2 invited our attention to the complaint dated 3rd March, 2016, lodged by respondent no.2, with the Police Inspector, on the basis of which FIR is lodged. A copy of this complaint is annexed to the affidavit of respondent no.2, at page no.120. He submitted that this written complaint shows that in the year 2014 also the petitioners demanded money from the complainant – respondent no.2 and on that ground she was harassed.

9. The decision of the Apex Court in *Thulia Kali* (supra) arises out of order of conviction. In paragraph 12, the Apex Court made following observations:

“12. First information report in a criminal case is an extremely vital and valuable piece of evidence for the purpose of corroborating the oral evidence adduced at the trial. The importance of the above report can hardly be overestimated from the standpoint of the accused. The object of insisting upon prompt lodging of the report to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as the names of eye-

witnesses present at the scene of occurrence. Delay in lodging the first information report quite often results in embellishment which is a creature of after-thought. On account of delay, the report not only gets bereft of the advantage of spontaneity, danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of deliberation and consultation. It is, therefore, essential that the delay in the lodging of the first information report should be satisfactorily explained.”

10. We are of the considered opinion that the ratio of this case is not applicable to the facts and circumstances of the present case, as the present case is filed under Section 482 of the Code and the prayer is for quashing of the proceedings of the criminal case. The Supreme Court in this case spelled out the object of recording of the prompt FIR and held that delay in lodging the first information report quite often results in embellishment which is a creature of afterthought. So far as the present case is concerned, in the FIR, last allegation as against the petitioners is of year-2007. However, why respondent no.2 has not filed complaint at that time is explained. The complainant further stated in the FIR that at that time her husband tendered apology to her and persuaded her not to file the FIR, which will damage the reputation of his family. He also promised that he would see to it that the complainant would be treated properly.

11. So far as the decision in *Preeti Gupta* (supra) is concerned, there is no dispute about the proposition laid

down by the Apex Court. In the said decision, the Apex Court observed that the matrimonial litigation is rapidly increasing in our country. The Apex Court further observed that they came across large number of complaints which are not *bona fide*. The Apex Court lastly observed that the members of Bar shall ensure that one complaint should not lead to multiple cases. We have kept in mind the observations of the Apex Court in the case of *Preeti Gupta* (supra). In the light of those observations we have examined the subject FIR, and, in our *prima facie* opinion, there are allegations against the petitioners, which at this stage inspire confidence.

12. In the totality of the facts and circumstances of the case, we are of the opinion that this is not a case which requires interference under Article 482 of the Code, in exercise of extra-ordinary jurisdiction, especially when the charge-sheet is filed and same, *prima facie*, discloses commission of offences under IPC.

13. Resultantly, the petition stands dismissed.

[N. J. JAMADAR, J.]

[RANJIT MORE, J.]