

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

944 CRIMINAL APPLICATION NO.964 OF 2020

1. Anil Baban Rathod
Age : 32 years, Occ : Service,
R/o C/o Vishal Khajinkar
Municipal Council's Employees
Residential Area, Gangapur,
Tq. Gangapur, Dist. Aurangabad.
2. Baban Mansing Rathod
Age : 53 years, Occ : Agri.,
R/o Bakshachi Wadi,
Tq. Ambad, Dist. Jalna.
3. Prayagbai Baban Rathod
Age : 50 years, Occ : Household,
R/o Bakshachi Wadi,
Tq. Ambad, Dist. Jalna.
4. Sunil Baban Rathod
Age : 29 years, Occ : Service,
R/o Bachelor Barak No.1,
Room No.32, S.R.P.F. Group No.14,
Aurangabad, Dist. Aurangabad.
5. Yogita Suresh Pawar
Age : 27 years, Occ : Household,
R/o Ram Nagar, Tq. Ambad,
Dist. Jalna
At present S.R.P.F. quarters,
Jalna, Dist. Jalna.
6. Vijay Bhausing Chavan
Age : 39 years, Occ : Agri.,
R/o Wadigodri, Tq. Ambad,
Dist. Jalna.

7. Latabai Vijay Chavan
Age : 37 years, Occ : Agri.,
R/o Wadigodri, Tq. Ambad,
Dist. Jalna.
8. Ganesh Ramesh Rathod
Age : 27 years, Occ : Agri.,
R/o Bakshachi Wadi,
Tq. Ambad, Dist. Jalna.
9. Ravindra Mangilal Rathod
Age : 24 years, Occ : Education,
R/o Bakshachi Wadi,
Tq. Ambad, Dist. Jalna
At present Udyog Bhavan,
Latur, Tq. & Dist. Latur.
10. Rohini Ganesh Rathod
Age : 25 years, Occ : Household,
R/o Bakshachi Wadi,
Tq. Ambad, Dist. Jalna.

..APPLICANTS

-VERSUS-

1. The State of Maharashtra
Through its Police Station
Ambad, Dist. Jalna.
2. Swati D/o Arjun Jadhav @
Swati W/o Anil Rathod
Age : 21 years, Occ : Household,
R/o Rahuwadi, Post. Chinchkhed,
Tq. Ambad, Dist. Jalna.

..RESPONDENTS

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Shri Amar Lavate h/f Shri S.J. Salunke,
Advocate for applicants;
Shri R.V. Dasalkar, APP for respondent No.1;
Shri Vishnu Jaware, Advocate for respondent
no.2.

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**CORAM : RAVINDRA V.GHUGE
AND
B.U.DEBADWAR,JJ.**

DATE : 17th March, 2021

Judgment (Per B.U. Debadwar, J.):

1. This is an application under section 482 of the Code of Criminal Procedure, 1973 (Hereinafter referred to as "the Cr.P.C."), for quashing F.I.R. No.0060/2020, dated 27.02.2020, registered at Police Station, Ambad, Dist. Jalna under sections 498-A, 323, 504, 506, 34 of the Indian Penal Code (Hereinafter referred to as "the I.P.C.") and Regular Criminal Case bearing R.C.C. No.249/2020, pending in the Court of the learned Judicial Magistrate, First Class, Ambad, arising out of the said F.I.R.

2. Heard Mr.Amar Lavate, the learned Advocate for the applicants, Mr.Vishnu Jaware, the learned Advocate for respondent no.2 and Mr.R.V. Dasalkar, the learned Additional Public Prosecutor for respondent No.1-State.

3. Mr.Amar Lavate, the learned Advocate for the applicants, on instructions,

withdrawn the application to the extent of applicant nos.1 to 3 and proceeded with the same to the extent of the rest of applicants i.e. applicant nos.4 to 10.

4. While taking us through the paper book annexed to the application, consisting of copies of the F.I.R. and charge-sheet, Mr.Amar Lavate, the learned Advocate submitted that the marriage of respondent no.2 with applicant no.1 – Anil has been solemnized on 26.05.2019. Only about four months after the marriage, respondent no.2 left the house of applicant no.1-Anil and went to her parental house situated at village Rahuwadi, Tq.Ambad, Dist. Jalna, without any reason, on her own accord. Applicant nos.4 to 10 are close relatives of applicant nos.1 to 3. They have no concerned with the matrimonial life of applicant no.1 and respondent no.2. They reside away from applicant nos.1 to 3, at different places. The allegations made in F.I.R. are omnibus allegations. No specific role in the alleged harassment is attributed to any of applicant nos.4 to 10. Their casual reference has been made in the F.I.R. and charge-sheet. The harassment is the only object to rope in them

in the case. No fruitful purpose would be served by dragging them to face the trial, that would amount to abuse of process of law. It is on the face of record, that the ultimate result of the trial, if conducted, would be their acquittal. Thus, according to Mr.Amar Lavate, learned Advocate, this is a fit case, wherein inherent powers under section 482 of Cr.P.C. can be invoked for quashing the F.I.R. and the criminal case arising out of the said F.I.R. against applicant nos.4 to 10.

5. Per-contra, Mr.Vishnu Jaware, the learned Advocate for respondent no.2 strenuously argued that applicant nos.4 to 10 are closely related with applicant nos.1 to 3. They are real brother, real sister, maternal uncle, wife of the maternal uncle, cousin brother, cousin brother and wife of cousin brother of applicant no.1 respectively. Though they reside at different places, are well connected with applicant nos.1 to 3. Some time, they directly harassed and ill-treated respondent no.2 and some time, they had instigated applicant nos.1 to 3 to harass respondent no.2 for coercing her to fulfill their demand of money. Their

common intention with applicant nos.1 to 3 in harassment of respondent no.2 clearly reveals from the averments made in the F.I.R. After due investigation, they are found to have committed the offence under sections 498-A, 504, 506 of the I.P.C. along with applicant nos.1 to 3. Since, there is a strong prima facie case, no inherent powers to quash the F.I.R. and charge-sheet can be invoked to their extent. Therefore, the application is liable to be dismissed.

6. Mr.Dasalkar, the learned Additional Public Prosecutor for respondent no.1-State, adopted the arguments submitted by Mr.Vishnu Jaware, learned Advocate for respondent no.2.

7. In the light of aforesaid submissions made at Bar by the learned Advocates representing both sides, we have carefully gone through the impugned F.I.R. and the impugned charge-sheet.

8. The allegations made in the F.I.R. bearing No.0060/2020 registered on 27.02.2020 at Police Station, Ambad, Dist. Jalna, are in short, that respondent no.2 is the daughter of Arjun Kannu Jadhav and Sumanbai Arjun

Jadhav, residents of Rahuwadi, Tq.Ambad, Dist.Jalna. Her marriage with applicant no.1 has been solemnized on 26.05.2019. Parents of respondent no.2 have given cash of Rs.8,50,000/-, Bullet motorcycle, gold ornaments, furniture and utensils to applicant no.1 as dowry, at the time of marriage. Applicant no.1 is a Government servant, serving in Civil Court at Gangapur as a Steno. After the marriage of respondent no.2 with applicant no.1, her matrimonial life was normal for about four months. However, thereafter, all the applicants started harassing and ill-treating her, not only after raising doubt about her character but also, on account of her not conceiving. They used to beat respondent no.2 for the said reasons. In spite of physical and mental harassment meted out, respondent no.2 continued to reside with her husband and in-laws, with the hope that, the change will take in their attitude and conduct, but no change took place in the conduct of the applicants. They continued to harass respondent no.2 for coercing her to fulfill their demand of Rs.20,00,000/-. They wanted the said amount for construction of the house. After harassing respondent no.2 on

account of demand of Rs.20,00,000/-, her not conceiving though sufficient period after the marriage elapsed and doubt about her fidelity at last, the applicants driven her out on 11.08.2019 and since then, respondent no.2 is residing at her parental house. In spite of taking every efforts, the applicants did not allow respondent no.2 to reside with them at their house. Therefore, on 20.11.2019, she approached the Special Women Cell constituted by Police Authorities at Jalna and lodged a complaint against the applicants. The applicants, in pursuance of the summons issued by the Authority of the aforesaid Cell, appeared but flatly refused to maintain respondent no.2. Therefore, respondent no.2 is constrained to lodge the F.I.R. against the applicants.

9. The statements of the witnesses, including parents of respondent no.2 recorded during the course of investigation, are almost identical with the F.I.R.

10. After scrutiny of the F.I.R. and charge-sheet, we find that applicant nos.4 to 10 are close relatives of applicant nos.1 to 3. They are real brother, real sister,

maternal uncle, wife of the maternal uncle, cousin brother, cousin brother and wife of cousin brother of applicant no.1 respectively. They reside, not with applicant nos.1 to 3 but, separately at different places. The allegations, as far as demand of Rs.20,00,000/- for construction of the house and harassment of respondent no.2 for fulfillment of the said demand and also for the reason of her not conceiving and suspicion about her character, are common allegations. No specific role attributed to them. Their casual reference has been made in the F.I.R., vis-a-vis, the statements of the witnesses recorded during the course of investigation. The details of harassment meted out by them have not been given anywhere in the F.I.R. and the statements of witnesses. The allegations as far as harassment on account of not conceiving and giving her pills for prevention from conception are inconsistent and contrary allegations. Exactly, who had given such pills and under what pretext, has not been made clear in the F.I.R. The nature of harassment is also not explained. Looking to the period for which respondent no.2 cohabited with husband after the marriage,

the allegations, as far as complicity of applicant nos.4 to 10, who are close relatives of applicant nos.1 to 3 in harassment of respondent no.2 does not appear to be at all probable. It was impossible for applicant nos.4 to 10 to travel, either at Bakshachi Wadi, Tq. Ambad, Dist. Jalna or Gangapur and join with applicant nos.1 to 3 for harassing respondent no.2, mentally and physically by various ways and means, as stated in the F.I.R.

11. In case of **Geeta Mehrotra and another V/s State of Uttar Pradesh and another {(2012) 10 SCC 741}**, the Hon'ble Supreme Court while explaining scope and ambit of inherent powers contemplated in Section 482 of Cr.P.C. with reference to matrimonial dispute, held as under:-

"Though the contents of the complaint made out a prima facie case against the husband of Respondent 2 wife and some other family members, but no such case was made out against the appellant-accused. There were no specific allegations against the appellant-accused (sister and brother of the husband) so as to make them liable for bickering between Respondent 2 wife and her husband. There was no

specific allegation against the appellant-accused that they demanded any dowry from Respondent 2. Casual reference to a large number of members of the husband's family without any allegation of active involvement would not justify taking cognizance against them and subjecting them to trial. Respondent 2 wife had obtained an ex parte divorce decree against her husband. This was also a relevant fact. Under these conditions, the High Court erred in not considering the entire circumstances of the case with regard to the appellant-accused. It disposed of the matter only on the issue of territorial jurisdiction without even looking at the other issues raised. Though it was justified in not deciding the issue of territorial jurisdiction under Section 482 CrPC but it failed to apply its mind to the case and determine whether the appellant-accused be subjected to trial. The High Court ought to have considered that even if the trial court had the jurisdiction to hold the trial, the question still remained as to whether the trial against the appellant brother and sister of the husband was fit to be continued and whether that would amount to abuse of process of court. As the contents of the FIR indicated that the appellant-accused were casually referred to and no prima facie case was made out against them, in the absence of specific allegations, criminal proceedings against them are

quashed without remanding the matter to High Court for reconsideration."

12. In the case of ***Parbatbhai Aahir Alias Parbatbhai Bhimsinghbhai Karmur and others V/s State of Gujarat and another*** {(2017) 9 SCC 641, the Hon'ble Supreme Court while dealing with the issue pertaining to quashment of F.I.R./Criminal proceedings in exercise of inherent powers covered by section 482 of the Cr.P.C. held that, "the section 482 Cr.P.C. is prefaced with an overriding provision. The statute saves the inherent power of the High Court, as a superior court, to make such orders as are necessary (i) to prevent an abuse of the process of any court; or (ii) otherwise to secure the ends of justice."

Beside, the Hon'ble Supreme Court laid down broad principles emerging from the precedent on the subject of inherent powers and they are as follows :-

"(1) Section 482 CrPC preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only

recognises and preserves powers which inhere in the High Court.

(2) The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 CrPC. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(3) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

(4) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

(5) The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no

exhaustive elaboration of principles can be formulated.

(6) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

(7) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

(8) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

(9) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(10) There is yet an exception to the principle set out in Propositions (8) and (9) above, Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

13. In view of details about averments/allegations made in F.I.R./charge-sheet, discussed in para supra, and the scope, ambit and object of Section 482 of Cr.P.C. discussed by the Hon'ble Supreme Court in the case of **Geeta Mehrotra and Parbatbhai Aahir (supra)**, we have no hesitation to hold that no offence under sections 498-A, 323, 504, 506 of the I.P.C. is made out in the F.I.R. and charge-sheet

against applicant nos.4 to 10. Their names appear to have been mentioned in F.I.R./charge-sheet without specifying their involvement in the alleged demand of money and harassment of respondent no.2 on that count and on other counts. Thus, they appear to have been involved in the case as they are closely related to applicant nos.1 to 3. Therefore, the F.I.R. and charge-sheet needs to be quashed to their extent. With this, we pass the following order:-

ORDER

(i) Criminal Application No.964/2020 is partly allowed.

(ii) F.I.R. No.0060/2020 registered on 27.02.2020 at Police Station, Ambad, Dist. Jalna under sections 498-A, 323, 504, 506, 34 of the Indian Penal Code, and the Regular Criminal Case bearing R.C.C. No.249/2020, pending in the Court of the learned Judicial Magistrate, First Class, Ambad are hereby quashed to the extent of applicant nos.4 to 10 by invoking powers under Section 482 of the Code of Criminal Procedure.

(iii) The Criminal Application to the

extent of applicant nos.1 to 3 stands
dismissed, as withdrawn.

(iv) The Criminal Application is disposed
of in the above terms.

(B.U.DEBADWAR,J.)

(RAVINDRA V. GHUGE,J.)

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