

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

905 CRIMINAL APPLICATION NO.1434 OF 2020

Supriya Raju @ Rajkumar Biradar
Age : 25 years, Occ : HH,
R/o Gadgi, Tq. & Dist. Bidar
(Karnataka)
Now at Gokhalenagar, Pune

..APPLICANT

-VERSUS-

1. The State of Maharashtra

2. Sheetal w/o Vaibhav Dhumale

Age : 29 years, Occ : Service,

R/o Markhel, Tq. Degloor

now at Talgalli, Behind Ambikar Oil Mill,
Degloor, Tq. Degloor, Dist. Nanded.

..RESPONDENTS

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Shri Vivek V. Bhavthankar, Advocate for
applicant;

Shri K.S. Patil, APP for respondent No.1-
State;

Shri U.B. Deshmukh, Advocate for respondent
no.2.

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

DATE : 18th 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 Regular Criminal Case No.64/2020, arising out of the F.I.R. no.62/2020, registered at Police Station, Markhel, Tq. Degloor, Dist. Nanded, for the offences punishable under sections 498-A, 323, 504, 506, 34 of the Indian Penal Code (Hereinafter referred to as "the I.P.C."), pending in the Court of the learned Judicial Magistrate, First Class, Degloor, Dist. Nanded to the extent of applicant, who has been arrayed therein as accused no.5.

2. Heard Mr.Vivek Bhavthankar, the learned Advocate for the applicant, Mr.U.B. Deshmukh, the learned Advocate for respondent no.2-first informant and Mr.K.S. Patil, the learned Additional Public Prosecutor for respondent No.1-State.

3. Mr.Vivek Bhavthankar, the learned Advocate for the applicant, while taking us through the paper book annexed to the application, including copies of the charge-sheet and the F.I.R., strenuously argued that Mrs.Sheetal Vaibhav Dhumale/first informant is the legally wedded wife of accused no.1 —

Vaibhav Anandrao Dhumale. Their marriage has been solemnized on 18.02.2018 as per Hindu Rites and Customs prevailing in their community. The applicant is the married sister of accused no.1 – Vaibhav Dhumale and sister-in-law of the first informant. She has been given in marriage at village Gadgi, Tq. & Dist. Bidar. However, she resides at Gokhalenagar, Pune along with her husband Raju @ Rajkumar Biradar. Raju @ Rajkumar Biradar carries business at Pune. Whereas, the first informant Sau. Sheetal used to reside at Markhel, Tq. Degloor, Dist. Nanded. Markhel, Tq. Degloor is far away from Pune, where the applicant resides with her husband. The allegation made against the applicant in the F.I.R. and charge-sheet are very much scanty and vague. No details of mental harassment of Sau. Sheetal by the applicant by asking her to pay the amount demanded for betterment of husband Vaibhav find place either in the F.I.R. or in the statement of any of the witnesses annexed to the charge-sheet. Whatever, allegations of demand of Rs.10,00,000/- and ill-treatment meted out to Sau. Sheetal, for coercing her to fulfill the said demand, are made against other accused, who are husband, father-in-law, mother-in-law

and brother-in-law of Sau.Sheetal. Looking to the facts that the applicant is married woman resides far away from village Markhel along with her husband, the question of her ill-treating Sau.Sheetal for any reason does not arise. The applicant has been involved in the case only to harass her, as she is a sister of accused nos.1 and 4 and the daughter of accused nos.2 and 3. Having regard to the nature of the allegations, absolutely there is no possibility of conviction of the applicant in criminal case. Thus, no fruitful purpose would be served by compelling her to face the trial, which ultimately will result in her acquittal. According to Mr.Vivek Bhavthankar, learned Advocate, this is a fit case, wherein the impugned F.I.R. and charge-sheet can be quashed to the extent of applicant by invoking powers under section 482 of the Cr.P.C.

4. Per-contra, Mr.U.B. Deshmukh, the learned Advocate for respondent no.2 vehemently argued that the applicant is very closely related to other accused. She is the real sister of Vaibhav, who happens to be the husband of first informant Sheetal. Mother

and father of Sau.Sheetal died in the year 2000 and 2004 respectively. She was brought up, educated and maintained by her maternal uncle-Deepak Devidas Deshmukh, resident of Talgalli, Degloor. Mr.Deepak Devidas Deshmukh performed the marriage of Sheetal with accused no.1 Vaibhav in February, 2018. He gave not only Rs.10,00,000/- to accused no.1 – Vaibhav but also gave gold ornaments of 10 tola gold, silver and utensils to him, at the time of marriage towards dowry. Though Sheetal was serving in A.P.M.C., Degloor, as a junior clerk and earning salary, inspite of giving huge dowry and performing marriage in the best possible manner, shortly, after the marriage, all the accused started harassing and ill-treating Sheetal for coercing her to bring Rs.10,00,000/- more for commencing business and engaging accused Vaibhav in the said business. The allegations made in the F.I.R. and charge-sheet against all the accused, including the applicant are specific allegations. The F.I.R. and charge-sheet makes out a prima facie case under section 498-A against the applicant. Therefore, the charge-sheet cannot be quashed to the extent of applicant by invoking inherent powers under section 482 of the Cr.P.C.

5. Mr.K.S. Patil, the learned Additional Public Prosecutor for respondent no.1 – State adopted almost all arguments advanced by Mr.U.B. Deshmukh, learned Advocate and submitted that after due investigation, the applicant along with other accused have been charge-sheeted. Therefore, the contention of the applicant that there is no prima facie case against her holds no water.

6. In the light of aforesaid submissions made at the Bar by the learned Advocates representing the parties, we have carefully gone through the impugned charge-sheet including F.I.R. lodged by Sau.Sheetal.

7. It is pertinent to note that on the basis of F.I.R. dated 06.04.2020, lodged by Sheetal Vaibhav Dhumale, the law was set in motion and after completion of investigation, in all five persons, including the applicant have been charge-sheeted for the offences punishable under section 498-A, 323, 324, 504 and 506 r/w 34 of the I.P.C.

8. The F.I.R. demonstrates that the

marriage of Sau.Sheetal with accused no.1 – Vaibhav solemnized on 18.02.2018 at Markhel, Tq.Degloor. The accused are husband, father-in-law, mother-in-law, brother-in-law and married sister-in-law of first informant-Sau.Sheetal. After the marriage, only for about two months, the accused behaved with Sheetal properly. However, thereafter, demand of Rs.10,00,000/- was made for commencing the business for accused no.1 – Vaibhav and accused nos.1 to 4 started coercing her to fulfill their demands. Accused no.1 – Vaibhav, accused no.2 – Anandarao, accused no.3 – Ujwalabai and accused no.4 – Sachin intermittently used to abuse her. After the Nagpanchami festival of 2018, the accused asked Sau.Sheetal, if she wants to come back to matrimonial house from maternal uncle's house, she should come along with Rs.10,00,000/-, otherwise, she will not be allowed to cohabit and reside with husband – Vaibhav at Markhel. In spite of giving understanding no change took place in the attitude and conduct of the accused. Sau. Sheetal did not lodge the report to the Police with a hope that the accused will change their attitude and conduct by a passage of time. Meanwhile, she became

pregnant and went to her maternal uncle's house for delivery. After delivery, the maternal uncle of Sheetal requested accused nos.1 and 2 to take Sheetal to their house with newly born baby, to which, they refused, saying that unless their demand of Rs.10,00,000/- is fulfilled, they will not take Sheetal to their house. When every efforts failed, Sheetal approached the Police Station and lodged the report.

9. The statement of almost all the witnesses recorded during the course of investigation and annexed to the charge-sheet are identical with the F.I.R. Allegations made against the applicant are limited to the extent that whenever she used to come to her parental house at Markhel, she used to tell Sheetal to fulfill the demand of money made by accused nos.1 to 4, as it is made for betterment of her husband.

10. The details of visits of applicant to Markhel does not find place, either in the F.I.R. or in the statements of any of the witnesses recorded during the course of investigation. In the absence of details about visits of the applicant to her parental

house at Markhel and looking to the period of stay of Sheetal with her matrimonial house at Markhel, which is very short one i.e. about 10 months, it is very difficult to accept the contentions of respondent no.2 that an offence is made out under section 498-A against the applicant. When it is clear from the record that the allegations made in the F.I.R. and charge-sheet, as far as the applicant, is concerned are very much scanty and vague, there would be no propriety in dragging the applicant to face the trial.

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 against the applicant, 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 cases of **Geeta Mehrotra and Parbatbhai Aahir (supra)**, we have no hesitation to hold that the name of

the applicant has been mentioned in the F.I.R. and charge-sheet without specifying her active involvement in the alleged demand of money and harassment of respondent no.2 on that count and on other counts. Thus, she appears to have been involved in the case only to harass her for the reason that she is sister of accused no.1 (husband of the first informant).

14. In view of above no fruitful purpose would be served by compelling respondent no.2 to face trial. As such, the charge-sheet needs to be quashed to her extent. With this, we pass the following order:

ORDER

(i) The Criminal Application is allowed.

(ii) Regular Criminal Case No.64/2020, arising out of the F.I.R. no.62/2020, registered at Police Station, Markhel, Tq.Degloor, Dist. Nanded, for the offences punishable under sections 498-A, 323, 504, 506, 34 of the Indian Penal Code, pending in the Court of the learned Judicial Magistrate, First Class, Degloor, Dist.Nanded, is hereby

quashed to the extent of applicant by invoking powers under Section 482 of the Code of Criminal Procedure.

(iii) The Criminal Application is disposed off in the above terms.

(B.U.DEBADWAR,J.)

(RAVINDRA V. GHUGE,J.)

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