

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

CRIMINAL APPLICATION NO. 1862 OF 2020

1. Prakash Sahebrao Kadam
Age – 55 Years, Occu.: Agriculture,
R/o Karanjala, Tq. Vasmat,
Dist. Hingoli.
2. Venubai Prakash Kadam
Age – 53 Years, Occu.: Household,
R/o Karanjala, Tq. Vasmat,
Dist. Hingoli.
3. Sahebrao Namdeorao Kadam
Age – 80 Years, Occu.: Agriculture,
R/o Karanjala, Tq. Vasmat,
Dist. Hingoli.
4. Kaushalyabai Sahebrao Kadam
(In FIR named as Kausabai)
Age – 75 Years, Occu.: Household,
R/o Karanjala, Tq. Vasmat,
Dist. Hingoli.
5. Ananta Gulabrao Kadam
(In FIR named as Anil)
Age – 25 Years, Occu.: Student
R/o. S.S. Gadiwale Building,
Nath Nagar, Nanded,
Dist. Nanded.
6. Pandurang Gulabrao Kadam
(In FIR named as Arjun)
Age – 20 Years, Occu.: Education,
R/o Room No.187, Apna boys Hostel,
6th Floor, J.J. Campus, Bhaykhala,
Mumbai – 400 008.
7. Deepak Vitthalrao Chavan
Age – 47 Years, Occu.: Contractor,
R/o. B-78, Acharya Nagar,
Parbhani.

8. Kavita Deepak Chavan
Age – 45 Years, Occu.: Household,
R/o. B-78, Acharya Nagar,
Parbhani.
 9. Taterao Uttamrao Kadam,
Age – 45 Years, Occu.: Agril.,
R/o. Shivaji Road, Purna,
Dist. Parbhani
At present Plot No.70, Shivram Nagar
(North), Parbhani.
 10. Manisha Taterao Kadam
Age – 39 years, Occupation : Household,
R/o. Shivaji Road, Purna,
Dist. Parbhani
At present Plot No.70, Shivram Nagar
(North), Parbhani.
 11. Vilas Prakashrao Kadam
(In FIR named as Lakhan)
Age – 30 Years, Occupation : Agril.,
R/o. Karanjala, Tq. Vasmat,
Dist. Hingoli.
 12. Munjaji Balasaheb Kadam
Age – 21 years, Occupation : Agril.,
R/o. Karanjala, Tq. Vasmat,
Dist. Hingoli.
 13. Balasaheb Gangadharrao Kadam
Age – 45 Years, Occupation : Agril.,
R/o. Karanjala, Tq. Vasmat,
Dist. Hingoli.
- ... Applicants

Versus

1. The State of Maharashtra
Through Police Station Hatta,
Dist. Hingoli.
 2. Poonam D/o Ashokrao Raut @
Poonam W/o Ashok Kadam,
R/o. Dudhgaon, Tq. Jintur,
Dist. Parbhani.
- ... Respondents

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Mr. S.J. Salunke, Advocate for the Applicant
Mr. Shashibhushan P. Deshmukh, A.P.P. for Respondent No.1 / State
Mr. M.P. Kale, Advocate for Respondent No.2

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**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 12th AUGUST, 2021

FINAL ORDER (PER SHRIKANT D KULKARNI, J.):

1. Heard finally with consent of both the sides at admission stage.
2. The applicants by taking aid of Section 482 of the Code of Criminal Procedure, are seeking the following reliefs.

“C-1] The Charge-sheet filed by the Investigating Officer in Crime No.323/2020 dated 6/10/2020 registered with Police Station Hatta, Dist. Hingoli for the offence punishable u/sec. 498-A, 354, 323, 504, 34 of I.P.C., may kindly be quashed, which is at Exhibit “T”

C-2] The Criminal case bearing R.C.C. No. 287 of 2020 (The State of Maharashtra Vs. Ashok & Others) pending on the file of Learned J.M.F.C. Vasmath, Dist. Hingoli, may kindly be quashed.

3. The marriage of respondent no.2 was solemnized with Ashok Gulabrao Kadam, resident of Karanjala. In the said marriage, the parents of the first informant had given dowry of Rs.5,00,000/-, gold ornaments, clothes and household articles. For few days after the marriage, the husband and in-laws behaved with respondent no.2 in a nice manner. After some days, the husband and in-laws started harassment and cruelty to the first informant at the instigation of distant relatives namely Deepak Vitthalrao Chavan, Kavita Deepak Chavan, Manisha Taterao Kadam and Taterao Uttamrao Kadam. The husband and in-laws started picking up quarrels with the first informant at the instigation of above said persons and started harassment. The husband and in-laws of the first informant at the instigation of applicant no.7 - Deepak Vitthalrao Chavan started unlawful demand of Rs.5,00,000/- for her husband for his contract business. The parents of the first informant could not satisfy unlawful demand of the husband and the in-laws of the first informant. Due to which, the first informant was subjected to severe beating and harassment at the hands of her husband and in-laws.

4. On 17.05.2020, husband and his relatives referred above driven out the first informant by taking away her gold ornaments so as to

fulfill demand of Rs.5,00,000/-. The matter was tried to be settled in the month of June 2020, but no outcome.

5. On 26.08.2020, the first informant and her maternal uncle Madhav Balasaheb Pawar had been to her matrimonial house in the morning about 9.00 a.m. on account of Mahalaxmi festival. Maternal uncle of the first informant after dropping her went to his village. Husband, two sons-in-laws namely Anil and Arjun, father-in-law, mother-in-law, cousin father-in-law Prakash Sahebrao Kadam and his wife Venubai Prakash Kadam and grandpartents-in-laws namely Sahebrao Namdeorao Kadam and Kaushalyabai Sahebrao Kadam were present at that time in the house. Soon after departure of maternal uncle of the first informant, husband, in-laws and above stated distant relatives started assaulting to the first informant as to why she did not bring Rs.5,00,000/- and why she returned with empty hands.

6. It is further alleged that brother-in-laws namely Anil and Arjun, Munjaji Balasaheb Kadam, Balasaheb Gangadharrao Kadam and cousin brother-in-law namely Lakhan Prakashrao Kadam behaved with the first informant in an obscene manner, which the first informant felt very bad. The above said persons caught hold hands

and legs of the first informant and put her in one vehicle Bolero and left her at parents house at Dudhgaon, Tq. Jinture, Dist. Parbhani at about 1.00 p.m. She was pushed in front of her parents house and vehicle went away.

7. The first informant rushed to the Police Station Hatta. Meeting for conciliation was arranged by the police on 05.10.2020, but there was no settlement and ultimately first informant lodged the F.I.R. against the applicants, her husband and in-laws at Hatta Police Station on 06.10.2020.

8. On the basis of F.I.R. lodged by the first informant, crime no. 323 of 2020 came to be registered against the applicants and others for the offence punishable under Sections 498-A, 354, 323, 504, 34 of the Indian Penal Code.

9. The applicants have rushed to this Court by invoking inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashing of the F.I.R. In the meanwhile, investigation of the above said crime came to be completed and police have submitted the charge-sheet against the applicants and others in the Court of Judicial Magistrate, First Class at Vasmat. The proceedings is

registered as R.C.C. No.287 of 2020 (The State of Maharashtra Vs. Ashok & Others).

10. The applicants, after making necessary amendment in the quashing petition also prayed for quashing of the charge-sheet and the proceedings initiated against them vide R.C.C. No.287 of 2020, which is now pending on the file of Judicial Magistrate, First Class at Vasmat, District Hingoli.

11. The learned counsel for the applicants, on instructions, after seeking leave of the Court has withdrawn the application to the extent of applicant no.5 - Ananta Gulabrao Kadam, applicant no.6 - Pandurang Gulabrao Kadam, applicant no.11 – Vilas Prakashrao Kadam, applicant no.12 – Munjaji Balasaheb Kadam and applicant no.13- Balasaheb Gangadharrao Kadam. In view of that, application came to be dismissed as withdrawn against them and proceeded to the extent of applicant nos.1 to 4 and 7 to 10.

12. Mr. S.J. Salunke, learned counsel for the applicants vehemently submitted that the entire family along with two neighbours have been roped in by the first informant in this matrimonial case. The distant relatives and the neighbours have no concerned with the alleged matrimonial dispute. He submitted that now a days a tendency is

developed for roping in the entire family from the husband side. He submitted that the allegations levelled against the above stated applicants are vague and general in nature. No active role is attributed to them. The first informant has given exaggerated version about the alleged incidents in the F.I.R. The first informant has made mere casual reference of above stated applicants in a matrimonial dispute without allegations and active involvement. The criminal prosecution would not be justified against the applicants. He submitted that allegations levelled against the applicants in F.I.R. are totally vague and general in nature. Even if the allegations levelled in the F.I.R. against the applicants are taken at their face value, no cognizable offence is made out against them. There is no propriety to continue the criminal prosecution against the applicants in absence of any *iota* of evidence. The Investigating Officer has failed to collect any *iota* of evidence against the applicants during the course of investigation though charge-sheet is submitted against them. It would be futile exercise to ask the applicants to face trial in the above scenario.

13. Mr. Salunke, learned counsel for the applicants urged to quash the criminal proceedings initiated against the applicants by placing reliance on following stock of citations :

1. ***Kans Raj Vs. State of Punjab*** reported in **(2000) 5 SCC 207.**

2. *Bhaskar Lal Sharma Vs. Monica* reported in (2009) 10 SCC 604.

3. *Preeti Gupta Vs. State of Jharkhand* reported in (2010) 7 SCC 667.

4. *Geeta Mehrotra and Anr. Vs. State of U.P. and Anr.* reported in 2012 AIR SCW 5692.

5. *Chandralekha Vs. State of Rajasthan* reported in (2013) 14 SCC 374.

6. *Mr. Ramesh Devidas Kurhade Vs. State of Maharashtra* reported in 2019 ALL MR (Cri.) 4906.

14. Per contra, Mr. Shashibhushan P. Deshmukh, learned APP for respondent no.1 / State invited our attention to the copy of F.I.R. and the copy of charge-sheet and papers annexed thereto. He submitted that there is *prima facie* material against the applicants. The cognizable offences are disclosed against the applicants. The Investigation Officer has collected sufficient evidence against all the accused including present applicants. The charge-sheet is already submitted in the Court of Judicial Magistrate, First Class. It is not a fit case to quash the criminal proceedings, when there is *prima facie* case against the applicants. The applicants must face the trial. He strongly

resisted to allow this quashing petition by relying on the following stock of citations :-

1. ***Amit Kapoor Vs. Ramesh Chander and Ors.*** reported in ***(2012) 9 SCC 460.***
2. ***Taramani Parakh Vs. State of M.P. and Ors.*** reported in ***(2015) 11 SCC 260.***
3. ***Social Action Forum for Manav Adhikar and Ors. Vs. Union of India (UOI), Ministry of Law and Justice and Ors.*** Reported in ***(2018) 10 SCC 443.***

15. Mr. M.P. Kale, learned counsel for respondent no.2 / first informant echoed the argument advanced by Mr. S.P. Deshmukh, learned APP for the State.. He submitted that the F.I.R discloses clear allegations against the applicants with their specific role. The allegations are specific with particular incident naming the concerned applicants / accused. He submitted that there is *prima facie* material against the applicants. Cognizable offences are made out on the basis of allegations levelled in the F.I.R. The Investigating Officer has also collected sufficient evidence during the course of investigation. It may not be proper to quash the criminal proceedings when charge-sheet is submitted against all accused including present applicants.

16. We have considered the arguments advanced by Mr. S.J. Salunke, learned counsel for the applicants, Mr. Shashibhushan P. Deshmukh, learned APP for respondent no.1 / State and Mr. M.P. Kale, learned counsel for respondent no.2 / first informant. We have also carefully gone through the F.I.R., copy of charge-sheet and annextures thereto in order to find out whether case is made out for quashing.

17. The law on quashing is now well-settled in view of landmark judgment of the Hon'ble Supreme Court in case of ***State of Harayana and others Vs. Ch. Bhajan Lal and others*** reported in ***A.I.R. 1992 S.C. 604***. On perusing a copy of F.I.R., it is evident that the marriage between respondent no.2 / first informant and Ashok Gulabrao Kadam was solemnized on 16.02.2020. After a short time span, within a period of eight months, the marriage between the parties seems to have landed in trouble in view of lodging of F.I.R. at the hands of respondent no.2 on 06.10.2020.

18. It is necessary to examine the allegations levelled against the present set of applicants as well as material collected during the course of investigation including statement of witnesses. On careful examination of the allegations levelled against the applicants in the

F.I.R., it is noticed by us that the names of applicant nos. 7 to 10 find place. The question is, what role they alleged to have played in the so called harassment and cruelty caused to the first informant – Poonam W/o Ashok Kadam. They alleged to have instigated the husband and in-laws of the first informant and on account of that the first informant was subjected to harassment and cruelty at the hands of her husband and in-laws. She was asked to fulfill unlawful demand of Rs.5,00,000/- at the instigation of applicant no.7. It is important to note that in order to support such allegations against applicants, no details are given in the F.I.R. The above stated applicants are resident of Parbhani, whereas the husband of the first informant and her in-laws are resident of Karanjala, Tq. Vasmant, Dist. Hingoli. The F.I.R. is silent as to when the above stated applicants instigated the husband of the first informant and her in-laws. At least some details are expected to base the F.I.R. Unfortunately, no details are given to support the allegations levelled against the applicants.

19. Similar is the case of allegations levelled against applicant no.7 regarding the second incident of instigation to fulfill unlawful demand of Rs.5,00,000/-. When such instigation alleged to have caused by applicant no.7, what are the means of such instigation,

what language alleged to have used by applicant no.7, there is absolutely no foundation to support such allegations.

20. In the present application for quashing, the husband and parents-in-laws are not made party applicants against whom serious allegations are made with some specific role. What about these applicants. Applicant no. 3 and applicant no.4 are grandparents-in-laws of the first informant who stated to be 80 years old and 75 years old. No specific role is attributed to them in the F.I.R. though their names find place in the F.I.R. The in-laws of the first informant cannot be roped in the case only on the ground of being close relations with the husband. There should be overt acts attributed to them for involving in the demand of dowry. By mere conjectures and implications such relatives cannot held guilty for the offence relating to demand of dowry. Now a days, a tendency is developed in the society to rope in all relatives of the husband to take revenge against that family. It is a bad trend, which may adversely affect the society.

21. In case of ***Kans Raj Vs. State of Punjab*** (supra), it is held by the Hon'ble Supreme Court that, "in cases of dowry death under Sections 304-B and 498-A of the Indian Penal Code, the accusations are made regarding demand of dowry, the overt acts attributed to persons other

than the persons are required to be proved beyond reasonable doubt. By mere conjectures and implications such relations cannot be held guilty for the offence relating to dowry deaths. 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 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 as appears to have happened in the instant case.”

22. In case of ***Bhaskar Lal Sharma Vs. Monica*** (supra), it is held by the Hon’ble Supreme Court that, “in order to attract Section 498A of the IPC, the complainant must make allegation of harassment to the extent so as to coerce her to meet any unlawful demand of dowry, or any willful conduct on the part of the accused of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health. In absence of such allegations, it is difficult to arrive at the conclusion that *prima facie* offence under Section 498-A is made out.

23. In case of *Preeti Gupta Vs. State of Jharkhand* (supra), it is held by the Hon'ble Supreme Court that, "in cases under Section 498-A, it is social responsibility and duty of the bar and Bench and obligation to maintain social fiber of family life. Genuine cases of dowry harassment are also a matter of serious concern to exaggerate version of small incident should not be reflected in the criminal complaints. The allegations of the complaint are required to be scrutinized with great care and circumspection, established against husband's relatives who are living in different cities and never visited or never visited or rarely visited to the matrimonial home of the complainant.

24. In case of *Geeta Mehrotra & Anr. Vs. State of U.P* reported in *AIR 2013 SC 181*, it is held by the Hon'ble Supreme Court that, "in the proceedings for quashing for the offence punishable under Section 498-A of the Indian Penal Code, casual reference of the relatives of the husband in the F.I.R. not sufficient to take cognizance. There must be allegations with regard to their active involvement in the matter."

25. In case of *Chandralekha Vs. State of Rajasthan* reported in *(2013) 14 SCC 374*, it is held by the Hon'ble Supreme Court that, "when the allegations are extremely general in nature and no specific role is attributed to each of the applicants and when their role is not

clear, continuation of criminal proceedings against the applicants pursuant to the F.I.R. is an abuse of process of law.”

26. The Division Bench of this Court in case of ***Mr. Ramesh Devidas Kurhade and Ors. Vs. The State of Maharashtra and Anr.*** (supra) was pleased to quash the F.I.R. by relying upon above stock of citations of the Hon’ble Supreme Court.

27. Now coming to stock of citations relied upon by Mr. S.P. Deshmukh, learned APP for respondent no.1 / State.

28. In case of ***Amit Kapoor Vs. Ramesh Chander and order*** (supra), it is held by the Hon’ble Supreme Court that, “the Courts has culled out some of the principles to be considered for proper exercise of jurisdiction under Section 397 of the Code of Criminal Procedure, 1973 or together, as the case may be.” It is further held by the Hon’ble Supreme Court that, “ the High Court could not have appreciated or evaluated the record and the documents filed with it. It was not the stage. The Court ought to have examined if the case falls in any of the above stated categories”.

29. In case of ***Taramani Parakh Vs. State of M.P. and Ors.*** (supra), it is held by the Hon’ble Supreme Court that, “the impugned order of

quashing of proceedings was not sustainable in eye of law in view of allegations levelled in the F.I.R. having regard to the facts of the case involved therein". The Hon'ble Supreme Court further held that, "quashing of proceedings before trial Court was not permissible", and pleased to quash impugned order of quashing of the proceedings.

30. In case of *Social Action Forum for Manav Adhikar and Ors. Vs. Union of India (UOI), Ministry of Law and Justice and Ors.* (supra), while dealing with the public interest litigation, the Hon'ble Supreme Court has issued certain directions regarding registration of F.I.R. relating to cruelty and harassment caused to the married women.

31. On carefully analysis of the stock of citations relied upon by both the sides, the legal position is very much clear that if the allegations levelled against the accused are vague and general, no specific role is attributed, no details are given regarding harassment or cruelty, continuation of the criminal prosecution would be an abuse of the process of the Court.

32. Now, coming back to the factual compass in hand with regard to the allegations levelled against the applicants. As discussed above, it is noticed by us that allegations leveled against the applicants in the

F.I.R. are vague and general in nature, no specific role is attributed against the applicants. No details are given in the F.I.R. to support the allegations against the applicants with their role. There is no foundation to support the allegations against the applicants. Certainly, in the above factual scenario, there is no propriety to allow criminal proceedings to continue, it would be an abuse of the process of the Court. It would be waste of time of the Court. The distant relatives of the husband of the informant seem to have been roped in this criminal prosecution without having their active involvement in the commission of alleged offences. Therefore, we arrived at conclusion to quash the criminal proceedings, to the extent of present set of applicants. Even old aged grandparents-in-laws are not spared in the case.

33. So far as the remaining applicants are concerned, they may face the trial before the concerned Judicial Magistrate, First Class against whom allegations are made including outraging of modesty punishable under Section 354 of the Indian Penal Code, in view of their withdrawal of application under Section 482 of the Code of Criminal Procedure.

34. In the result, we proceed to pass the following order :-

ORDER

(i) The criminal application under Section 482 of the Code of Criminal Procedure is allowed in terms of prayer clauses “C-1”, and “C-2” to the extent of applicant no.1 -Prakash Sahebrao Kadam, applicant no.2 - Venubai Prakash Kadam, applicant no.3 - Sahebrao Namdeorao Kadam, applicant no.4 - Kaushalyabai Sahebrao Kadam, applicant no.7 - Deepak Vitthalrao Chavan, applicant no.8 - Kavita Deepak Chavan, applicant no.9 - Taterao Uttamrao Kadam and applicant no.10 - Manisha Taterao Kadam.

(ii) The criminal proceedings vide R.C.C. No. 287 of 2020 shall go on against remaining applicants in accordance with law.

(iii) The criminal application is accordingly disposed of.

(SHRIKANT D. KULKARNI)
JUDGE

(V. K. JADHAV)
JUDGE

S.P Rane