

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, NAGPUR.**

**CRIMINAL APPLICATION (APL) NO. 31/2015**

- 1] **Ramavadh Ramabhilakh Shukla,**  
Aged abt. 50 yrs, Occ. Service,
- 2] **Madhu Ramavadh Shukla,**  
Aged abt. 48 yrs, Occ. Housewife,
- 3] **Soni Praveen Pande,**  
Aged abt. 48 yrs, Occ. Business,
- 4] **Lalit Narayan Shukla,**  
Aged abt. 22 yrs, Occ. Service,

All R/o. Plot No. 22, Anushakti Nagar,  
Preeti Housing Co-operative Society,  
Hazaripahad, Nagpur

.... **APPLICANT(S)**

**// VERSUS //**

- 1] **State of Maharashtra,**  
Through Police Station Officer,  
Gittikhadan Police Station, Nagpur
- 2] **Lalita Durgesh Shukla,**  
Aged abt. 28 yrs, Occ. Service,  
R/o. - B-302, Sukhnavas Apartment,  
N.I.T. Trust Layout, Ambazari Road,  
Nagpur

.... **NON-APPLICANT(S)**

\*\*\*\*\*  
Shri C.B. Dharmadhikari, Advocate for the applicant(s)  
Shri S.P. Deshpande, Addl. PP for the non-applicant no. 1  
\*\*\*\*\*

**CORAM : Z.A.HAQ & AMIT B. BORKAR, JJ.**  
**FEBRUARY 17, 2021**

**CRIMINAL APPLICATION (APPP) NO. 288/2021**

1] For the reasons stated in the application, the applicants are permitted to incorporate the proposed amendment.

2] The criminal application is **allowed** accordingly. The amendment be carried out forthwith.

**CRIMINAL APPLICATION (APL) NO. 31/2015****ORAL JUDGMENT : (PER:- AMIT B. BORKAR, J.)**

3] Heard.

4] By this application under Section 482 of the Code of Criminal Procedure, the applicants have challenged registration of F.I.R. No. 463/2014 dated 13/11/2014 registered with the non-applicant no. 1 – Police Station and consequent Charge-sheet No. 61/2015 for the offences punishable under Sections 498-A and 34 of the Indian Penal Code.

The first information report came to be registered against the applicants with the accusations that the applicants, who are in-laws of the non-applicant no. 2, alongwith the husband of the non-applicant no. 2 physically and mentally harassed the non-applicant no. 2. It is alleged that the harassment caused to the non-applicant no. 2 was due to non-payment of dowry and she was insulted from time to time. It is further alleged that the

applicants abused the non-applicant no. 2 on various occasions and also threatened to kill her.

5] The applicants have therefore filed the present application challenging registration of the first information report. This Court on 24/02/2015 issued notices to the non-applicants. This Court on 04/12/2017 admitted the present application and continued the interim relief directing that charge-sheet should not be filed against the applicants.

6] In pursuance of the notice issued by this Court, the non-applicant no. 1 filed reply and stated that charge-sheet in the present matter was already filed on 09/03/2015 bearing no. 61/2015. It is stated that there is sufficient material against the applicants to be prosecuted for the offences alleged against them. It is further stated that in view of the filing of the charge-sheet, the applicants have alternative remedy under the provisions of the Code of Criminal Procedure.

7] During the pendency of the present application, the applicants have filed additional affidavit stating that the non-applicant no. 2 and her husband have started residing together since December, 2016 at different place.

8] During the course of hearing, learned advocate for the applicants fairly stated that though the non-applicant no. 2 and her husband

had resided separately, from December, 2016 they continued to reside together for a period of nine months and thereafter they are again residing separately.

9] We have carefully considered the allegations in the first information report and the statements of witnesses which are incorporated in the charge-sheet. After carefully scrutinizing the allegations in the first information report, we find that there is no specific role attributed to each of the applicants by giving details of physical and mental harassment caused by them to the non-applicant no. 2. From reading of the first information report, it appears that the allegations against the applicants are vague and omnibus. After going through the statements of the witnesses in the charge-sheet, it appears that the said statements are similar in nature.

10] In *G. Sagar Suri and another Vs. State of U.P and others* reported in *(2000) 2 SCC 636*, the Hon'ble Supreme Court observed that the criminal proceedings should not be allowed to be resorted to as shortcut to settle the score. Before issuing process, the Criminal Court has to exercise a great deal of caution. For the accused, it is a serious matter. Jurisdiction under Section 482 of the Code of Criminal Procedure has to be exercised to prevent abuse of the process of the Court or otherwise secure ends of justice.

In *M/s. Indian Oil Corporation Vs. M/s. NEPC India Ltd., & others* reported in *2006 (7) Scale 286*, the Hon'ble Supreme Court

deprecated the tendency of using the criminal justice system as a tool of arm twisting and to settle the score, and laid down that the High Court can intervene where the criminal justice system is used as a tool.

The Hon'ble Apex Court in the judgment of ***Kailash Chandra Agrawal VS. State of U.P. and others*** reported in ***(2014)16 SCC 551*** has made observations that the tendency, which has been developed for roping in all relations of the in-laws by the wife in the matter of dowry deaths or such type of similar offences in an over enthusiasm and anxiety to seek conviction needs to be deprecated. The Hon'ble Apex Court in the case of ***K. Subba Rao Vs. State of Telangana*** reported in ***2018 (14) SCC 452*** observed that relatives of the husband should not be roped in on the basis of vague allegations unless specific instances of their involvement are set out.

11] It is true that while considering quashing of criminal proceedings under Section 482 of the Code of Criminal Procedure, the Court should not embark upon an inquiry into the truthfulness of the allegations made by the complainant but, when the filing of F.I.R. amounts to gross misuse of the criminal justice system, it becomes the duty of the High Court to intervene in such cases, under Section 482 of the Code of Criminal Procedure so that there is no miscarriage of justice and faith of people in the judicial system remains intact.

12] After having considered the nature of allegations against the applicants which are vague and omnibus and the statements of the witnesses incorporated in the charge-sheet which are similar in nature, we are satisfied that the prosecution of the applicants is not a legitimate prosecution. Therefore, continuation of the prosecution against the applicants would amount to abuse of process of the Court.

13] Hence, the following order is passed :-

F.I.R. No. 463/2014 dated 13/11/2014 and consequent Charge-sheet No. 61/2015 dated 09/03/2015 filed before the Judicial Magistrate First Class, Court No. 10, Nagpur for the offences punishable under Sections 498-A and 34 of the Indian Penal Code are quashed and set aside.

Rule is made absolute in the above terms.

**JUDGE**

**JUDGE**