

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

CRIMINAL APPLICATION (APL) NO. 559 OF 2015

Prashant Ramraoji Dhawad,

Aged about 46 years,

Occupation – Social Worker,

R/o. 39, Old Nandanwan, Nagpur.

. . . . **APPLICANT**

.. VERSUS

1. State of Maharashtra through
Police Station Ajni, District Nagpur.

2. Sau. Vishakha Prashil Nagpure,
Aged 32 years, Occ. Lawyer,
R/o. Chintamani-3, Plot No. 43
Manewada Besa Road, P.S. Ajni,
Dist. Nagpur.

3. Sau. Vishakha Prashil Nagpure,
@ Vishakha D/o. Haridas Meshram,
Aged major, Occ. Advocate,
R/o. Bhagi Hari Villa,
Circle No. 17/23, Lashkaribagh,
Kamal Chowk, Nagpur.

. . . . **NON-APPLICANTS**

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Shri Nikhil R. Tekade, Advocate for the applicant.

Shri S.D.Sirpurkar, APP for non-applicant no.1.

Shri H.P. Lingayat, Advocate for non-applicant no.2.

CORAM: Z. A. HAQ AND
AMIT B. BORKAR, JJ.
DATED : 5.3.2021.

ORAL JUDGMENT (PER : AMIT B. BORKAR, J.) :

1. By this application under Section 482 of the Code of Criminal Procedure, 1973, the applicant has challenged registration of the First Information Report No.306/2013 registered with the non-applicant no.1 – Police Station for offences punishable under Sections 294, 498-A, 323, 506-B read with Section 34 of the Indian Penal Code read with Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and consequent Charge-sheet No.343/2015 dated 28.12.2015.

2. The applicant is the brother-in-law of the non-applicant no.2, who is not named in the First Information Report. The First Information Report came to be registered against the husband and other in laws of non applicant no. 2 with the accusations that the non-applicant no.2 married with the Prashil s/o Sudhakar Nagpure on 29.10.2012. It is further alleged that after marriage, the applicant mentally and physically harassed the non-applicant no.2 and demanded dowry of Rs.Five lakhs. It is further alleged that for non-payment of said amount of dowry, the non-applicant no.2 was thrown out of her matrimonial house.

3. The applicant has, therefore, challenged registration of the First Information Report by filing present application. On 24.8.2015 issued notice to the non-applicants. On 20.7.2016, this

Court issued Rule and granted interim relief staying further proceedings against the applicant. During pendency of the present application, Charge-sheet came to be filed against the applicant.

4. In pursuance of the notice of this Court, the non-applicant no.1 filed reply and it is stated that the husband of the non-applicant no.2 treated her with cruelty and for the non-payment of dowry of Rs. Five lakhs, she was thrown out of the matrimonial house. During the course of investigation, the Investigating Officer recorded statements of the neighbours , relatives and the non-applicant no.2, which implicated the relatives of husband of the non-applicant no.2.

5. The non-applicant no.2 filed reply stating that the allegations in the First Information Report are corroborated by statements of the witnesses to prove that the non-applicant no.2 was treated with cruelty by the relatives of her husband. It is also stated that the relatives of the husband of the non-applicant no.2 hurled abuses on the caste of the non-applicant no.2.

6. We have carefully considered the allegations in the First Information Report and the statements of the witnesses recorded by the Investigating Agency and it appears that the applicant is not named in the First Information Report. It is only in supplementary

statement recorded after two months i.e. on 9.11.2013 that the non-applicant no.2 has made allegations against the applicant that the applicant had abused the non-applicant no.2 in the name of the caste. We have carefully considered the statements of the witnesses recorded by the Investigating Agency and it appears that no specific role had been assigned to the present applicant. Though, the statement of one Vishwas Sarkar states that he had seen three males and three females abusing a woman in the name of castes, he did not intervene ; after the period of eight months, said witness stated before the police that he was not knowing either the non-applicant no.2 or her brother before the incident. It is, therefore, stated in his statement that his presence was only by way of chance. Except the said witness, who has not named the applicant, there is no witness who has named the applicant for offence abusing the non-applicant no.2. We are, therefore, satisfied that the applicant cannot be prosecuted only on the basis of omnibus allegations and in absence of the material in the Charge-sheet in support of the statement in supplementary report. Since the First Information Report does not name the present applicant and attributing role to the applicant after a period of two months by the non-applicant no.2 is nothing but, an afterthought on the part of the non-applicant no.2 to implicate the present applicant. We are, therefore, satisfied

that the prosecution launched against the applicant is not legitimate prosecution. We are satisfied that the continuation of the prosecution against the applicant would amount to abuse of process of the Court. We, therefore, pass the following order:

ORDER

F.I.R. No.306/2013 and consequent charge-sheet no.343/2015 for offences punishable under Sections 294, 498-A, 323, 506-B read with Section 34 of the Indian Penal Code read with Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are quashed and set aside.

Rule is made absolute in the above terms.

JUDGE

JUDGE