

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

CRIMINAL APPLICATION (APL) NO. 705 OF 2015

1. Umesh s/o Shankarrao Keram,
Aged about : 35 years, Occ. Service,
R/o C/o Shri Ganesh Manmode,
Opp. Rest House, Telhare,
Tah. Telhara, District - Akola.
2. Shankarrao S/o Akaram Keram,
Aged about 63 years, Occ. Nil,
3. Sau. Mira W/o Shankarrao Keram,
Aged about : 60 years,
Occ. Housewife.

Applicant Nos.2 & 3 are resident of
C/o Kaware, Opp. Rest House,
Telhara, Tah. Telhara,
District-Akola.

4. Poonam w/o Dinesh Raigade,
Aged : 37 years, occ. Housewife,
5. Dinesh s/o Ramdar Raigade,
Aged about : 40 years, Occ. Service,

Applicant Nos.4 & 5 Resident of
C/o Ganesh Hariram Masram,
Opp. Priyadarshani School,
Futala, Nagpur.

... **APPLICANTS**

..VERSUS..

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Durgapur,
Tah. and District – Chandrapur.
2. Police Station Officer,
Police Station, Telhara,

Tah. Telhara,
District-Akola.

3. Harsha w/o Umesh Keram,
Aged about : 30 years,
Occ. Service, Resident of
C/o Sheshrao Atram,
State Bank Colony, Tukum,
Durgapur Road, Chandrapur,
Tah. and District-Chandrapur.

... **NON-APPLICANTS**

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Mrs. Deepa I.Charlewar, Advocate for the applicants.

Shri T.A.Mirza, APP for the non-applicant nos.1 and 2.

Shri M.P.Khajanchi, Advocate for non-applicant no.3.

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CORAM: Z. A. HAQ AND

AMIT B. BORKAR, JJ.

DATED: 02-03.2021

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

1. By this application under Section 482 of the Code of Criminal Procedure, 1973, the applicants, who are in-laws of the non-applicant no.2 except the applicant no.1, who is husband, have challenged registration of the First Information Report No.66/2015 dated 19.8.2015 registered with the non-applicant no.1 – Police Station for offences punishable under Sections 498-A, 406 and 506 read with Section 34 of the Indian Penal Code.

2. The non-applicant no.2 registered First Information

Report with the non-applicant no.1 – Police Station alleging that the applicant no.1 is the husband and the applicant nos.2 to 5 are relatives of the husband in connivance with each other physically and mentally harassed the non-applicant no.2 for refusal to pay dowry amount. It is also alleged that the father-in-law of the non-applicant no.2 had misappropriated golden ornaments and cash given by father of the non-applicant no.2 to the non-applicant no.2.

3. The applicant has, therefore, challenged registration of the First Information Report by way of present application. On 9.10.2015, this Court issued notice to the non-applicants and granted ad-interim relief not to take coercive steps against the applicants. On 13.4.2016, this Court issued Rule and granted interim relief in terms of prayer clause (ii).

4. The non-applicant no.1 has filed reply and has stated that there is sufficient material against the applicants in support of the prosecution.

5. The applicants have filed rejoinder to the reply of the non-applicant no.1 stating that they deny the allegations that the applicants have not attended the Police Station as alleged in the reply and the applicants are ready to cooperate with the

Investigating Agency.

6. We have carefully scrutinized the contents of the First Information Report against the applicants. Careful scrutiny of the First Information report discloses that in relation to the incident prior to 16.7.2013, the applicant no.1 and family members of the non-applicant no.2 settled their dispute and went back to her matrimonial house in December 2014. As per allegation in the First Information Report after she went in her matrimonial house, in December 2014 she went to the house of her father and mother on 14.6.2015. Though, she went to the house of her father and mother on 14.6.2015, the First Information Report was lodged only on 19.8.2015. The non-applicant no.2 in her report stated that though she was called for settlement on 19.6.2015, she refused to settle the matter. As per the dates mentioned in the F.I.R., it appears that there is delay of more than two months in registering First Information Report. It appears that the husband of the non-applicant no.2 i.e. the applicant no.1 had filed Petition under Section 9 of the Hindu Marriage Act for Restitution of Conjugal Rights on 29.5.2014 and in reply dated 5.9.2014 filed by the non-applicant no.2 in the said petition, she has not stated the incidents mentioned in the First Information Report. 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 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 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.

7. In view of failure to give details of the incidents mentioned in the First Information Report of the alleged harassment caused by the applicants in the reply dated 5.9.2014 and the delay of more than two months in lodging the First Information report, we are satisfied that the report lodged by the non-applicant no.2 against the applicant – husband, father-in-law, mother-in-law, sister-in-law and brother-in-law of the non-applicant no.2 deserves to be quashed and set aside. We, therefore, pass the following order:

ORDER

The First Information Report No.66/2015 dated 19.8.2015 registered with the non-applicant no.1 – Police Station for offences punishable under Sections 498-A, 406, 506 read with Section 34 of the Indian Penal Code is quashed and set aside.

Rule is made absolute in the above terms.

JUDGE

JUDGE

Ambulkar