

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO. 1053 OF 2021**

- 1] Shivnarayan S/o. Kalusingh
Age 51 Years, Occ. Agriculture,
R/o. Bhadhaiyya, Tq. Lambhua
Dist. Sultanpur (Uttar Pradesh).
- 2] Amit s/o. Shivnarayan Singh,
Age 24 years, Occ. Student,
R/o. Bhadhaiyya, Tq. Lambhua,
Dist. Sultanpur (Uttar Pradesh).
- 3] Prakhar s/o. Shivnarayan Singh,
Age 17 years, Occ. Student,
R/o. Bhadhaiyya, Tq. Lambhua,
Dist. Sultanpur (Uttar Pradesh).
- 4] Sapna Jitendra Singh,
Age 29 years, Occ. Household,
R/o. Nariyavan Alawalpur, Alawalpur,
Faizabad, (Uttar Pradesh).

.... Applicants

Versus

1. The State of Maharashtra,
2. Shweta Mohit Singh
Age 29 years, Occ. Household
R/o. 241, Surganga Building,
Shop No.1, Kandivali West,
Bholenath Pan Shop Mumbai,
Charkop, Brah Mumbai.

.... Respondents

Advocate for Applicant : Mr. Shaikh Mohd. Naseer A.
APP for Respondent No. 1 : Mr. R.V. Dasalkar
Adv. For respondent No.2 : Ms. Vinaya Dharurkar

**CORAM : SMT. VIBHA KANKANWADI &
RAJESH S. PATIL, JJ.**

DATE : 4th October, 2022.

JUDGMENT [PER : RAJESH S. PATIL, J.] :-

1] By the present application, the applicants are praying for quashing and setting aside the FIR bearing No. 0085 of 2021 registered at Bazar Peth Police Station, Bhusawal, Dist. Jalgaon under Sections 498-A, 323, 506 r/w. 34 of IPC and Section 3 and 4 of Dowry Prohibition Act, 1961.

A. FACTS :

2] The FIR is registered at the behest of respondent No.2/informant. The gist of the FIR is that, the respondent No.2 was married to Mohit Shivnarayan Singh on 25.02.2019 at Suntanpur, Uttar Pradesh. He was at that time residing at Bhusawal, being employed as Assistant Loco Pilot. After marriage she was residing with at Bhadaiyya, Taluka Lambua, Dist. Sultanpur alongwith in-laws. The husband used to visit native place. From the first night of marriage, the husband started ill-treating her. The informant then states that she saw some photographs of her husband with another lady and chatting on Whatsapp. She was beaten, ill-treated and abused. The brother in law committed theft of Rs. 40,000/- but the allegation of theft was levelled against the informant. Thereafter, she was ill-treated on demand of Rs.5,00,000/-. The sister in law also instigated the husband.

The informant has given a long list of allegations regarding

harassment and illtreatment from 25.6.2019 to 5.12.2020, on non-fulfilment of demand of Rs. 5 Lakhs.

3] After hearing the parties, when this Court expressed its disinclination to grant any relief so far as applicant Nos. 1 to 3 are concerned, the learned counsel for the applicants, on instructions, withdrew the application in respect of the said applicants. Therefore, the application, so far as applicant Nos. 1 to 3 are concerned, stands dismissed.

B. SUBMISSION OF PARTIES :

4] So far as applicant No.4 is concerned, the learned advocate for the applicants submitted that the applicant No.4 is resident of Nariyavan Alawalpur , Awalpur, Faizabad (Uttar Pradesh). And even before the marriage of the informant with Mohit Singh – the brother of applicant No.4, the applicant No.4 was married. Therefore, there is no question of her harassing the informant. The FIR, therefore, needs to be quashed as against the applicant No.4.

5] Learned APP – Mr. Dasalkar, on the other hand, submitted that the informant has given detail account of harassment by the applicants and hence there is no question of quashing of FIR and criminal proceedings. The application may therefore be dismissed.

C. ANALYSIS :

6] If we peruse the contents of the FIR, there is nothing against

the applicant No.4 to suggest that she was in any way involved in the harassment being meted out to the informant. The only allegation is that she used to instigate the husband to harass the informant. But, there are no specific allegations in that regard. In absence of such material, we are unable to accept that the applicant No.4 is any way involved in the harassment meted out to the informant by the in-laws, inasmuch as, applicant No.4 was married even before the marriage of informant with Mohit Singh took place i.e. prior to 25.6.2019. Under such circumstances, it is difficult to believe, in absence of any specific allegations against her that she was involved in the offence under Section 498-A of IPC.

7] Admittedly the applicant No.4 stays in a different city than that of original respondent No.2. At this juncture, it is necessary to consider the relevant provisions of Section 498-A of I.P.C., which reads thus :-

“[498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.—For the purpose of this section, “cruelty” means—
(a) any wilful conduct which is 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 (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such

demand.]

Therefore, the section contemplates that there has to be “cruelty” committed to a woman by her husband or the relatives of the husband, only then the offence stands proved.

In the present case, admittedly, the applicant No.4 is married prior to the date of marriage of informant and Mohit Singh.. The statements made in the FIR are general and do not amount to an offence either under Section 498-A, or under Sections 323, , 504 and 506 r/w. 34 of IPC.

8] We have, recently in Criminal Application No. 2230 of 2020 (Narayan S/o. Eknath Devkar and others Vs. State of Maharashtra and others) decided on 25.7.2022; after considering the various judgments in para. Nos. 22 to 24, held in para. No. 27 as under :-

“Thus, we are of the considered view that the respondent No.2 only with an intention to harass the applicant No.1, with ulterior motive, has filed the complaint also against far off relatives i.e. respondent Nos. 4 to 15. Continuation of prosecution against Applicant Nos. 4 to 15, who are far off relatives of husband and who stay separately in their own house, in our opinion, would amount to abuse of process of law.”

19] Taking into consideration the ratio laid down in the cases of Gian Singh, Bhajanlal and Geeta Mehrotra(supra), we are of the considered view that so far as applicant No.4 is concerned, there are no specific allegations against her and only with a view to harass the applicant No.4 she is arrayed as accused in the FIR. Therefore, in our view this is a fit case, wherein, we should exercise our discretion under Section 482 of the Code of Criminal Procedure to quash the criminal proceeding as against applicant No.4.

ORDER

- i. The application in so far as applicants Nos. 1 to 3 are concerned, stands disposed of as withdrawn.
- ii. The application, in so far as applicant No.4 – Sapna Jitendra Singh is concerned, is allowed in terms of prayer clause (B).
- iii. Criminal Application stands disposed of, accordingly.

[RAJESH S. PATIL]
JUDGE

grt/-

[SMT. VIBHA KANKANWADI]
JUDGE