

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

CRIMINAL APPLICATION NO. 1892 OF 2022

Aniruddha Sunil Ambekar
Age: 37 years, Occ.: Service,
R/o. Plot No.D-5, Sai Residency,
Rameshwar Nagari, Honaji Nagar,
Jatwada Road, Near Mahadeo Temple,
Harsul, Aurangabad – 431001.
(Brother-in-law of respondent No.2)

... Applicant
(Orig. Accused No.4)

Versus

1) The State of Maharashtra
Through Police Station Officer,
Police Station Paithan, Tq. Paithan,
Dist. Aurangabad.

2) Shraddha Pradyumna Ambekar
Age: 31 years, Occu.: Medical Profession,
R/o. Nath Colony, Paithan,
Tq. Paithan Dist. Aurangabad.
Mobile No.8668259729

... Respondents
(Resp. No.2 Org. Complainant)

...
Mr.Mohit R. Deshmukh, Advocate for Applicant.
Mr.M.M.Nerlikar, APP for Respondent No.1-State.
Mr.R.V.Gore, Advocate for Respondent No.2

...
**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : 19th December, 2022

JUDGMENT (PER ABHAY S. WAGHWASE, J.) :

Brother of main accused husband has invoked inherent powers of this
Court under Section 482 of the Code of Criminal Procedure (for short ‘Cr.PC.’)

praying to quash FIR and charge-sheet arising out of Crime No.0417 of 2021, registered with Paithan Police Station, District Aurangabad, for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code (IPC).

2. Brief background of the case :

Shraddha Pradyumna Ambekar informed Police that she was married to Pradyumna Ambekar on 06-12-2015. She further informed that two months after marriage, her husband abused her for bringing marriage certificate. She has alleged that he quit his job in Jadhav Hospital and started searching place for his own hospital and in such background he asked informant to arrange Rs.20,00,000/- from her parents. As far as present applicant is concerned, it is alleged that on holidays her parents-in-law and brother-in-law came to Kannad and said that she is of no use, she cannot work and that they could have got a working girl for accused husband. She was asked to bring Rs.20,00,000/- for hospital and on such count, she was abused and threatened to be driven out of the house. She has alleged that her husband, parents-in-law subjected her to mental and physical cruelty. On the strength of such allegations, Police registered aforesaid crime.

The above FIR and the investigation, which was commenced on the strength of the same and which further culminated into charge-sheet are now both sought to be quashed and set aside by invoking inherent powers of this

Court under Section 482 of Cr.PC.

Submissions

3. Learned Advocate for the applicant would submit that applicant herein, who is brother-in-law of informant is falsely implicated with sole intention to rope in entire family members of accused husband. That brother of applicant and informant both are medical practitioners. Present applicant has nothing to do with internal affairs of informant and her husband. That, applicant resides separately. According to learned Advocate, behaviour and conduct of informant herself was not proper and on one occasion, she tried to strangle her husband and therefore, crime was registered by husband against her. Out of vengeance, instant crime has been registered. Allegations are even otherwise general, omnibus and non-specific in nature. Therefore, he relies on the cases of ***Arnesh Kumar v. State of Bihar*** [2014 (3) Bom.C.R. (Cri) 362] and ***Madhavrao Jiwaji Rao Scindia and Another v. Sambhajirao Chandrojirao Angre and Others Etc.*** [AIR 1988 SC 709]. He submits that present case, being abuse of process of law, its continuation would render hardship and injustice to the applicant, who is falsely implicated. Therefore, he prays to allow the application by granting relief as prayed.

4. Learned APP for respondent No.1-State strongly opposed the application by pointing out that applicant is named. He was also a party in making illegal demand of Rs.20,00,000/- and issuing life threats to informant. With such

material on record, he submits that prosecution launched is proper one. Investigation has also revealed involvement of present applicant with husband and in-laws. Therefore, he submits that applicant deserves to face trial.

5. On behalf of respondent No.2 also application is opposed by pointing out that role of applicant is clearly defined in FIR. He alongwith his parents visited matrimonial house of informant and in the backdrop of demand of Rs.20,00,000/-, there was mal-treatment to the informant. She has accordingly stated so in the FIR. Even investigation shows that present applicant is also responsible for ill-treatment. Therefore, he too deserves to face prosecution. Hence, he prayed for rejection of the application.

6. Here applicants are seeking relief of quashing of FIR by exercising inherent powers under Section 482 of Cr.PC..

As to when powers under Section 482 of Cr.PC. can be exercised is fairly settled by slew of judgments including *Inder Mohan Goswami and Anr. Vs. State of Uttaranchal and Ors.*; (2007) 12 SCC 1 and *Mahendra K.C. Vs. State of Karnataka and Another*, (2022) 2 Supreme Court Cases 129.

Very recently, the Hon'ble Apex Court in case of *Kahkashan Kausar alias Sonam and others v. State of Bihar and others* ; (2022) 6 SCC 599, after dealing with the observations in the cases of *Geeta Mehrotra*

Vs. State of U.P.; (2012) 10 SCC 741, ***Preeti Gupta v. State of Jharkhand***; AIR 2010 SC 3362 and ***K. Subba Rao v. The State of Telangana*** ; (2018) 14 SCC 452, has succinctly culled out proposition and the same is appearing in para no. 18 which reads as under :

“18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that “all accused harassed her mentally and threatened her of terminating her pregnancy”. Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.”

7. In the light of such legal requirements, if we examine the FIR in hand, it is emerging that present applicant is elder brother of husband of informant and as such he happens to be brother-in-law of informant. He resides separately and at distinct place. On minute scrutiny of FIR, it is emerging that there are allegations that after two months of marriage, husband beat her,

abused her on account of marriage certificate. She has alleged that he quit the job and was looking for own place for hospital. She has alleged that husband asked her to arrange Rs.20,00,000/- from her parents, abused her and beat her. Therefore, allegations are primarily directed against husband. Informant claims that during the holidays her parents-in-law and present applicant visited informant's house at Kannad and started saying that because of informant, her husband had left the job. There are allegations that in-laws and applicant said that she is of no use and she is not earning and that, it would have been better, if accused husband would have been married to a working girl and that they had raised education loan for him. Finally, she alleges that husband and in-laws demanded Rs.20,00,000/- from her parents and on failure they would drive her out of house.

8. Therefore, from above discussed material, it is clearly emerging that according to informant, present applicant visited her house with his parents only on holidays. Detail of specific day of visit is not given in the FIR. Allegations are even otherwise general in nature as she has alleged that there was dissatisfaction expressed for not doing work and not earning. Demand of Rs.20,00,000/- is primarily attributed to husband in the initial part of the FIR and not against present applicant.

9. We have also gone through the statements of witnesses recorded under

Section 161 of Cr.P.C. i.e. father, mother and sister of informant. Their statements are monotonous in nature and moreover, only allegation against present applicant is that he visited matrimonial house of informant during holidays. It is pertinent to note that Investigating Officer has also recorded statements of neighbours. However, both the neighbours namely Ramprasad Babasaheb Ambhure and Pravin Sahebrao Patil have given statements on hearsay information. Witness Sadashiv Dagadu Patil and Bhaskar Balaji Rasane claimed that whatever they learnt was from Paithan Police. Therefore, here independent witnesses have given statements on hearsay information or from receiving information from Police.

10. As regards to present applicant is concerned, it is reiterated that only allegation against him is that he visited informant's matrimonial house during holidays and after commenting on her looks, he also asked her to bring Rs.20,00,000/- for hospital. It is worth nothing that one of the witnesses namely Sadashiv Dagadu Patil, whose statement under Section 161 of Cr.P.C. has been recorded by Police, has already stated that informant and her husband had shifted to Phulambri and they were running their own hospital. With such statement, allegation of demand of Rs.20,00,000/- for hospital is rendered doubtful.

It is evident that general, omnibus and non-specific allegations are levelled against him. Applicant resides at different place. He is named

alongwith parents in law, that too for visiting during holidays. Details of such holidays are not provided. Consequently, making applicant face prosecution with such quality of material would definitely render injustice to him. As it amounts to abuse of process of law and for ends of justice to meet, we are convinced that it is a fit case to exercise inherent powers under Section 482 of Cr.P.C. We, accordingly, proceed to pass following order :-

ORDER

- (I) Application, to the extent of applicant, is allowed in terms of prayer clauses-[B].
- (II) Application is accordingly disposed of.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)

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