

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2324 OF 2021

SHOBHABAI W/O. JAYSING NARSALE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Patil Milind M. (beedkar)

APP for Respondent/State : Mr. K. S. Patil

Advocate for Respondent No.2 : Mr. S. B. Chavan (appointed Through Legal Aid)

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**CORAM : SARANG V. KOTWAL &
BHARAT P. DESHPANDE, JJ.**

DATE : 30th JUNE 2022.

Per Court :

1. This is an application for quashing of the proceedings in R.C.C. No. 71/2019 pending on the file of Judicial Magistrate First Class, Naigaon, Dist. Nanded for the offences punishable under Sections 323, 34, 498-A, 504 and 506 of the Indian Penal Code (I.P.C. for short).
2. Heard learned Counsel for the parties.

3. The FIR is lodged by one Smt. Kanhopatra @ Arti/ Respondent No.2. She was married with Nilesh Narsale. The present application is preferred by Nilesh and his relatives. Nilesh himself is Applicant No.3. His mother – Shobhabai is Applicant No.1. His brother – Yogesh is Applicant No.2. His sister – Vrushali is Applicant No.4 and Vurshali's husband is Applicant No.5. At the outset, learned counsel for the Applicants pointed out that as per the order dated 21.10.2021, the application on behalf of Applicant No.1/Shobhabai and Applicant No.3/Nilesh, was dismissed. Therefore, the application survives only in respect of Applicant No.2, 4 and 5.

4. The FIR is lodged on 12.02.2019. The Respondent No.2/First Informant has stated that she got married with Nilesh on 15.07.2018. At the time of marriage, her parents had given Rs.10 Lakh and gold ornaments as well as articles. Initially for few days, the Informant was treated properly. After that the husband/ Nilesh, father-in-law/ Jaysing and mother-in-law/ Shobhabai, started harassing her on the demand of Rs.10 Lakh. The Informant complained about this to her parents and other family members. They tried to convince the in-laws

and husband of the Informant. However, there was no improvement in the situation. On 21.09.2018, Nilesh assaulted her after consuming liquor. Therefore, on 22.09.2018, she went back to reside with her parents at Gadga and thereafter the FIR was lodged because nobody from husband family, came to take her back. On this basis, the FIR is lodged.

5. Her supplementary statement was recorded on 14.02.2019 and in that statement, some general allegations were made against the present remaining Applicants. It is mentioned that all these three Applicants had attended the wedding. After the marriage the Applicant No.4/ Vrushali and Applicant No.5/ Bharat said that the arrangement was not made in a Five Star Hotel and the arrangement was not satisfactory. It is alleged that her brother-in-law told her husband to throw the Informant out of their house. There are allegations against all the Applicants that the Informant was harassed on the demand of Rs.10 Lakh. The investigation was carried out and charge-sheet was filed.

6. Learned Counsel for the Applicants submitted that there are only

vague allegations against these Applicants. All these three Applicants were residing in Dubai and they had come to attend the wedding. There was no occasion for them to cause harassment to the first Informant within this short time, when she resided in her matrimonial house. As can be seen from the FIR, the Informant resided in her matrimonial house for hardly two months. He submitted that the husband has obtained divorce from the Informant.

7. Learned APP as well as learned Counsel for Respondent No.2 opposed this application based on the averments in the supplementary statement as well as on the basis of statement of witnesses recorded during the investigation.

8. We have considered these submissions. We have perused the FIR, the supplementary statement of the Informant and statements of other witnesses. There are statements of witnesses namely Prashant Nangre, Hirabai Nangre, Babasaheb Aadhav, Pritesh Pangadh and Avinash Nangre. All of them have stated that all these three Applicants were residing at Dubai and they had come to India only to attend the

wedding. Thus, the learned Counsel for the Applicants' submission is supported by these statements.

9. As far as other witnesses are concerned, they are relatives of the Informant. Ashok Bhakre is the father, Ansayabai is the mother, Trimbak is the brother and Govind Sategave is the uncle of the Informant. The other witnesses are Dnyaneshwer, Santosh and Bhagwan. They are residents of the Informant's Village. Their statements are similar to the FIR and the supplementary statement. Even as per the supplementary statement of the Informant, there are only vague allegations against these three Applicants. The main allegations are directed specifically against the husband, the mother-in-law and father-in-law. The father-in-law has already passed away. As far as the present three Applicants are concerned, there are no specific allegations mentioned against them. From the charge-sheet, it is clear that they were residing in Dubai. The Informant resided only for a couple of month with her husband. In this view of the matter, it is difficult to believe that these three Applicants had caused harassment to the Informant amounting to the offence under Section 498-A of IPC.

Therefore, continuation of these proceedings against them would amount to an abuse of process of law. Hence, we are inclined to allow this application by passing the following order.

ORDER

(i) The Criminal Application is allowed in terms of prayer clause 'C'.

(ii) The proceedings in R.C.C. No. 71/2019 pending before the Judicial Magistrate First Class, Naigaon, Dist. Nanded, are quashed and set aside, qua the Applicant No. 2 -Yogesh Narsale, Applicant No.4 – Vrushali Gadge and Applicant No.5 – Bharat Gadge.

(iii) The Criminal Application is disposed of.

[BHARAT P. DESHPANDE, J.]

[SARANG V. KOTWAL, J.]

Najeeb...