

IN THE HIGH COURT OF JUDICATURE AT BOMBAYNAGPUR BENCH : NAGPURCRIMINAL APPLICATION (APL) NO.58/2020

1. Sunil Bhaskar Kharate,
aged about 43 Yrs., Occ. Teacher,
R/o C/o Umesh Pandurang Paray,
Gajanan Nagar, Near Jabaji Maharaj
Mandir, Kaulkhed, Akola.
2. Sushma Sonagre,
aged about 35 Yrs., Occ. Teacher,
R/o C/o Vijay Sonagre, Dange Nagar,
Nandura, Buldhana.
3. Gopal Thegaji Kodge,
aged about 36 Yrs., Occ. Teacher,
R/o Karanja, Tq. Balapur,
Dist. Akola.

... Applicants

- Versus -

1. State of Maharashtra,
through Police Station Officer,
Police Station, Nandura, Buldhana.
2. Bhaskar Atmaram Nage,
aged about 46 Yrs., Occ. Business,
R/o Krushna Nagri, Kolkhed, Khadan,
Akola, Taluka and Dist. Akola.

... Non-applicants

Ms. Divya Joshi, Advocate h/f Mr. S.V. Sirpurkar, Advocate for the
applicants.

Mr. A.S. Fulzele, A.P.P. for non-applicant No.1.

**CORAM : SUNIL B. SHUKRE AND
G.A. SANAP, JJ.**

DATE : 16.6.2022

ORAL JUDGMENT (Per Sunil B. Shukre, J.)

Heard. Leave to amend the Criminal Application (APL) No.58/2020 seeking quashing and setting aside of the chargesheet filed during the pendency of this application is granted. Leave to amend the prayer clauses accordingly is also granted. Amendments be carried out forthwith.

2. Heard. **Rule.** Rule made returnable forthwith. Heard finally by consent of learned counsel for the applicants and learned A.P.P. for non-applicant No.1. Learned counsel for non-applicant No.2 is absent though served.

3. The applicant Nos.1 and 2 are the brother-in-law and sister-in-law of the deceased. Applicant No.3 is the cousin brother-in-law of the deceased.

4. It is seen from the F.I.R. and the statements of the witnesses that about two months after marriage of the deceased with Manoj, the marriage being solemnized on 28.2.2016, her husband and in-laws started harassing her on the count of failure to meet the demand of the husband and in-laws to bring money from her parents. It is further seen that on 19 August 2019, deceased Seema @ Dhanashri, wife of Manoj, died of hanging and on the basis of the report given by her father offence punishable under Sections 306 and 498-A read with Section 34 of the Indian Penal Code came to be registered at Police Station Nandura, District Buldhana against husband and in-laws of the deceased including the present applicants.

5. It is the case of the applicants that the allegations made against them are general and omnibus in nature and nothing specifically has been stated against them and, therefore, no offence whatsoever is made out against them.

6. Learned A.P.P. is of the opinion that some or the other allegations are certainly there against these applicants and they suggest that *prima facie* case is made out against these applicants for the offences registered against them.

7. Upon consideration of the F.I.R. and the statements of witnesses, we find that there are specific allegations made only against applicant No.2 and the allegations made against applicant Nos.1 and 3 are general and omnibus in nature. While it is true that it has been specifically alleged that at the time of fixing of marriage, the husband and all her in-laws including applicant No.1 and applicant No.3 had made a demand of dowry of Rs.1,50,000/-, but, this demand being of the year 2015 and thereafter their being no similar demand made by the applicant Nos.1 and 3 for the next about three years, the demand of money made in the year 2015, as per the settled law, would not be enough to constitute the offence punishable under Section 498-A of the Indian Penal Code and relevant offences under the Dowry

Prohibition Act. Then, the remaining allegations made against applicant No.1 are general in nature which would not constitute any offence of cruelty or abetment of suicide. Same is the case with applicant No.3 against whom a general allegation of he falsely stating the parent of the deceased that Manoj, to whom deceased was married, having a job in his hand. This allegation is general in nature as it does not state as to when and in what circumstances such false statement has been made. Even separate offence of cheating has not been registered for the said allegation.

8. We are, therefore, of the opinion that if the criminal proceedings upon such stale, general and vague allegations against applicant Nos.1 and 3 are continued, it would amount to abuse of process of law. However, it is not so in the case of applicant No.2.

9. In the result, the application is partly allowed.

10. F.I.R. vide Crime No.512/2019 registered at Police Station Nandura, District Buldhana and the chargesheet filed against applicant No.1 - Sunil Bhaskar Kharate and applicant No.3 - Gopal Thegaji Kodge are hereby quashed and set aside.

11. Application of applicant No.2 - Sushma Sonagre is hereby dismissed.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)