

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

CRIMINAL WRIT PETITION NO.168 OF 2022

1. Piyush s/o Chandu Gudadhe
Aged about 31 years,
Occupation – Service in Merchant Navy,
R/o. Plot No.39-B, Mitrangan Residency,
Near Jawarkar Lawn, Amravati
Tq. and District Amravati
2. Pallavi w/o Mahendra Raut
Aged about 34 years,
Occupation – Household,
R/o. Baghoda, Betul,
Rai Amla (Madhya Pradesh) 460666

...PETITIONERS

VERSUS

1. State of Maharashtra through
Police Station Officer
Police Station Nandgaon Peth,
Amravati, Tq. and District Amravati
2. Snehal w/o Piyush Gudadhe
Aged about 25 years,
Occupation – Household,
R/o. C/o Ravindra Khedkar,
Treasury Colony, Arjun Nagar,
Amravati Tq. and District Amravati
3. Regional Passport Authority,
Nagpur
Office at-1 CGO Complex,
B-Block, Seminary Hills Road,
Seminary, Nagpur,
Tq. and District Nagpur - 440006

...RESPONDENTS

Ms Aastha Sharma, Advocate for the petitioners.
Shri V.A. Thakare, Additional Public Prosecutor for respondent Nos.1/State.
Shri Sumit Gandhe, Advocate for respondent No.2.
Shri S.A. Chaudhari, Advocate for respondent No.3.

CORAM : ROHIT B. DEO & URMILA JOSHI-PHALKE, JJ.
DATE : OCTOBER 18, 2022.

JUDGMENT (Per Urmila Joshi-Phalke, J.)

Rule. Rule made returnable forthwith. Heard finally with the consent of learned Counsel for the parties.

2. By preferring this petition, the petitioners seeking relief for quashing of First Information Report (hereinafter referred to as the 'FIR' for short) vide Crime No.489/2021 registered at police station Nandgaon Peth, Amravati, District Amravati for the offences punishable under Sections 324, 498-A, 504 and 506 read with Section 34 of the Indian Penal Code (hereinafter referred to as 'the IPC' for short).

3. Respondent No.2 has lodged the report against the present petitioners alleging that her marriage was performed with respondent No.1 on 02/12/2020. Her husband is serving in Merchant Navy. After marriage she resumed cohabitation at her matrimonial house. She alleged that since her marriage petitioner No.1 is taking suspicion against

her and used to abuse her. Her father though given him Rs.3,00,000/- (Rs. Three lacs) for purchase of the house but petitioner No.1 had not returned the said amount. Whenever she demands the amount, her husband assaults her. Petitioner No.2 who is sister-in-law instigates her husband and on her instigation he used to assault her. On the basis of said report, police have registered the offence against both the petitioners. During the pendency of the petition, learned Counsel for the petitioners pressed the petition for petitioner No.2, therefore, liberty was granted to petitioner No.1 to move for appropriate petition.

4. On the basis of the allegations, offence was registered against petitioner No.2. It is the contention of petitioner No.2 that general allegations are made against her. Prior to marriage of the petitioner No.1, her marriage was performed and she is residing at her matrimonial house in Madhya Pradesh. No specific instances are given by the informant regarding his presence and instigation by her. General allegations is made against her. Due to the registration of the offence she is mentally harassed. She is implicated falsely and maliciously. Compelling her to face the trial would be abuse of the process of law. Hence FIR registered against petitioner No.2 be quashed.

5. In response to the notice, respondent Nos.1 and 2 opposed the said petition on the ground that there is sufficient material against

petitioner No.2 to show that she mentally and physically harassed the informant. Petitioner No.2 alleged to be harassed the informant by instigating petitioner No.1. Considering *prima facie* material, petition deserves to be rejected.

6. Heard learned Counsel for both the sides. Perused the record and the FIR.

7. It is submitted by learned Counsel for the petitioners that absolutely there is no material against petitioner No.2. Her marriage was performed long back and since residing at her matrimonial house. Nowadays, there is a tendency to implicate all the family members in the alleged offence. In fact, vague allegations are made against the present petitioners. Compelling her to face the trial would be abuse of process of law and hence the FIR registered against petitioner No.2 deserves to be quashed.

8. Shri V.A. Thakare, learned Additional Public Prosecutor for respondent No.1 and Shri Gandhe, learned Counsel for respondent No.2 submitted that there is ample material against petitioner No.2 to show that she has committed an offence. Considering *prima facie* material, petition deserves to be rejected.

9. On perusal of the record it shows that only allegation against petitioner No.2 is that she used to instigate her husband and she used to instigate petitioner No.1 and on her instigation petitioner No.1 used to harass and ill-treat respondent No.2. Admittedly, general allegations are made against petitioner No.2. Regarding the general allegations and omnibus allegations, the Hon'ble Apex Court in the case of ***K. Subba Rao and ors. Vs. State of Telangana, represented by its Secretary, Department of Home and ors. (2018) 14 SCC 452*** held that the Courts should be careful in proceeding against distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on basis of omnibus allegations, unless specific instances of their involvement in crime are made out.

10. In the present case, admittedly petitioner No.2 married prior to the marriage of the informant with petitioner No.1. Respondent No.2 had not narrated any specific instances regarding her involvement in the crime. The allegations are general in nature. Said allegations can be termed as omnibus allegations.

11. In such circumstances, compelling petitioner No.2 to face the trial would be abuse of the process of law.

12. The Hon'ble Apex Court in the case of *Jagmohan Singh Vs. Vimlesh Kumar and ors. 2022 LiveLaw (SC) 546* held that while exercising jurisdiction under Section 482 of the Cr.P.C., the High Court should not ordinarily embark upon an enquiry into whether there is reliable evidence or not. The jurisdiction has to be exercised sparingly, carefully and with caution only when such exercise is justified by the specific provisions of Section 482 of the Cr.P.C. itself. It is further held that the criminal proceedings can be said to be in abuse of the process of Court, to warrant intervention under Section 482 Cr.P.C., when the allegations in the FIR do not at all disclose any offence or there are materials on record from which the Court can reasonably arrive at a finding that the proceedings are in abuse of the process of the Court.

13. In view of the above, we proceed to pass the following order :

(i) The writ petition, in respect of petitioner No.2, is allowed.

(ii) Considering the general allegations made against petitioner No.2, the First Information Report vide Crime No.489/2021 registered at police station Nandgaon Peth, Amravati, District Amravati for the offences punishable under Sections 324, 498-A, 504 and 506 read with Section 34 of the Indian Penal Code against petitioner No.2 is quashed and set aside.

Correction carried
out as per Hon'ble
Court's Order dated
28/11/2022.

(iii) The criminal writ petition in respect of petitioner No.1
is disposed of as withdrawn.

14. Rule is made absolute in the aforesaid terms. No costs.

(URMILA JOSHI-PHALKE, J.)

(ROHIT B. DEO, J.)

**Divya*