

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO.286/2021

Sau. Swati w/o Ravi Walke,
aged about 32 years, Occ. Job,
r/o Chhatrapati Nagar, Near Vidya
Vihar Convent, Chandrapur,
District Chandrapur.

.....APPLICANT

...V E R S U S...

1. State of Maharashtra through
Police Station Officer, Khadan Police
Station, Tq. Dist. Akola.

2. Sau. Rajeshree Amit Meshram,
aged 27 years, Occ. None,
r/o Jetvan Nagar, Near Maitri
Buddha Vihar, Khadan, Akola.

...NON APPLICANTS

M. K. Y. Mandpe, Advocate for applicant.
Mr.S. S. Doifode, A.P.P. for non applicant no.1.
None for non applicant no.2, though served.

CORAM:- ROHIT B. DEO & ANIL L. PANSARE, JJ.
DATED :- 26.09.2022

ORAL JUDGMENT (Per: Anil L. Pansare, J.)

The applicant has put forth the following
substantive prayer:

“(a) Quash and set aside the entire charge-sheet bearing Criminal Case No. R.C.C.675/2020 pending before Judicial Magistrate First Class, arising out of F.I.R. dated 21.08.2020 bearing Crime No.0524/2020.”

2. Perused the FIR. Non applicant no.2/informant has lodged report with non applicant no.1-Police Station, mentioning therein that she got married with Amit Meshram on 02.06.2017. The present applicant is sister of Amit Meshram. The allegations in substance are that the family members of the husband of non applicant no.2-informant were not happy as non applicant no.2 has given birth to a girl child. It is then alleged that the in-laws and husband of non applicant no.2 asked her to either seek private service or to get Rs.50,000/- from her matrimonial house. She showed her inability to pay the amount, upon which she has been subjected to mental and physical harassment by her husband and in-laws.

3. Thus, the non applicant no.2 has made vague allegations that her in-laws were not happy because she delivered a girl child and that they asked her to do private job or to get Rs.50,000/- from her parents.

4. Here, it is necessary to look into the provisions of Section 498-A of the IPC, 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.

5. Thus, the relatives of husband could be said to subject a woman (wife) to cruelty if the conduct of the relative is wilful and is of such a nature which has potential to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health of the woman. In the present case, there appears no such cruelty at the hands of the applicant to the non applicant no.2. So far as element of

harassment is concerned, we have already noted that vague allegations have been made against the in-laws that they were not happy because non applicant no.2 delivered a baby girl. Such allegation by itself cannot be said to be harassment of non applicant no.2 with a view to coerce her or any person related to her to meet any unlawful demand of money.

6. Thus, even if the allegations in the FIR and charge-sheet are taken on its face value, there is absolutely nothing against the present applicant to show complicity of the applicant with the offence punishable under Sections 498-A read with Section 34 of the IPC.

7. It appears to us that the applicant has been roped in to pressurize the entire family. We are saying so because there is absolutely nothing against the applicant to even remotely suggest her complicity with the crime alleged especially when she is not residing with the non applicant no.2 or her husband.

8. The aforesaid allegations can neither be said to be cruelty nor harassment as defined under Section 498-A of the

Indian Penal Code. There is a growing tendency to implicate the relatives and in a given case the distant relatives in the matters of matrimonial discord. The present case is no exception.

9. Having considered the relevant material placed before us and in absence of any specific role attributed to the applicant, it would be unjust if the applicant is forced to undergo rigors of investigation and/or trial where the allegations do not disclose offence as alleged even if the contents of FIR are accepted at its face value.

10. In view thereof, the applicant has made out a case in her favour. We accordingly allow the present application. Rule is made absolute in terms of prayer clause (a).

(Anil L. Pansare, J.)

(Rohit B. Deo, J.)

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