

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

CRIMINAL APPLICATION NO.341 OF 2022

**AVINASH SAHEBRAO SANAP AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. R. S. Kasar, Advocate for the applicants
Ms. V. N. Patil-Jadhav, APP for the respondent/State
Mr. M. D. Gitte, Advocate for respondent No.2

**CORAM : SMT. ANUJA PRABHUDESSAI AND
R. M. JOSHI, JJ.**

DATE : 31ST JANUARY, 2023

PER COURT :-

1. With consent, heard finally at the stage of admission.
2. This is an application under Section 482 of Cr.P.C. to quash the first information report No. 0379/2021 registered with Sonai Police Station, Ahmednagar and RCC No. 80/2022 pending before the learned JMFC, Newasa, Dist. Ahmednagar for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code.
3. Heard learned counsel for the applicants, learned APP for the respondent/State and learned counsel for respondent No.2. We have perused the records and considered the submissions advanced by learned counsel for the respective parties.

4. The marriage between respondent No.2 and applicant No.1 was solemnized on 10th March, 2019. The respondent No.2 lodged the first information report against her husband (applicant No.1), mother-in-law (applicant No.2), married sister-in-law, her husband, her father-in-law (applicant Nos.3, 4 and 5) and the maternal aunts of her husband (applicant Nos.6 and 7) alleging that they demanded dowry of Rs.3 lakhs and subjected to her physical and mental cruelty for not meeting the said unlawful demand.

5. The application has been withdrawn against applicant No.1 vide order dated 14th February, 2022. The question for our consideration is whether the allegations in the first information report and other material on record which forms part of charge-sheet discloses cognizable offences as alleged, as against the applicant Nos. 2 to 7.

6. The respondent No.2 has alleged that she was treated well for some days after the marriage and thereafter she was harassed for not giving due respect to husband's family members at the time of marriage. It is further stated that the respondent Nos. 6 and 7 used to comment that she did not know to cook. She has claimed that she was not provided food and that she was assaulted and subjected to physical and mental cruelty over trivial issues. She has further stated that her "in-laws" had demanded an amount of Rs. 3 lakhs from her parents that

assaulted her for not meeting the unlawful demand of dowry. She has further stated that she had gone to her parental home for the first delivery and after she returned home her husband assaulted her for not bringing the money. She also claims that her in-laws also assaulted and abused her.

7. A plain perusal of the first information report reveals that the respondent No.2 has made omnibus allegations not only against her husband and his family members but also against the husband and father-in-law of her married sister-in-law. In the case of ***Kahkashan Kausar Alias Sonam and Others Versus State of Bihar and Others*** reported in **(2022) 6 SCC 599** the Hon'ble Supreme Court while dealing with the similar case has observed that,

"17. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them."

8. In the instant case, apart from omnibus allegation made against the applicants, the FIR and the other material does not disclose

that these applicants had subjected respondent No.2 to cruelty within the meaning of clause (a) and (b) to the Explanation to Section 498-A of the IPC. In the absence of such specific allegations, these applicants cannot be compelled to face criminal prosecution on the basis of omnibus allegations. The present case is squarely covered by illustrations (1) and (3) laid down in case of ***State of Haryana and others Vs. Ch. Bhajan Lal and others*** reported in ***(1992) 3 SCR 735 (SC)***. Hence in our considered view this is a fit case to exercise discretion under Section 482 of Cr.P.C. to prevent any abuse of the process of Court. In the result, application is allowed in terms of prayer clause 'B' and 'BB', consequently the first information report No. 0379/2021 registered with Sonai Police Station, Ahmednagar and RCC No. 80/2022 pending before the learned JMFC, Newasa, Dist. Ahmednagar for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code stands quashed.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

ssp