

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1237 OF 2023

1. SHAILESH JAGANNATH PANKHADE
2. KADUBAI JAGANNATH PANKHADE
3. MUKTA SANTOSH PANKHADE
4. SANTOSH JAGANNATH PANKHADE

VERSUS

STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. N. S. Shah h/f
Mr. N. D. Batule

Advocate for Respondent No. 1 : Mr. S. W. Munde

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CORAM : R.M. JOSHI, J

DATE : OCTOBER 16, 2023

PER COURT :

1. With consent of learned Counsel appearing for Applicant and learned APP for Respondent No. 1 – State, heard finally. None appeared for Respondent No. 2.

2. At the outset, learned Counsel for the Applicants, on instructions, submits that he is not pressing Application against Applicant No. 1.

3. In view of this, application is dismissed as withdrawn against Applicant No. 1.

4. Respondent No. 2 has filed private complaint before Magistrate making allegations against Applicants

for the offences punishable under Sections 498-A, 323, 504, 506 of Indian Penal Code. According to her, her marriage was performed with Applicant No. 1 on 24.05.2020 and since then she started cohabitation at her matrimonial home. She used to stay along with husband and mother-in-law on the upper floor of the premises whereas Applicant Nos. 3 and 4 were staying on ground floor. It is alleged that all Applicants used to cause harassment to her and they used to demand Rs. 1 lacs for purchase of furniture. On the basis of these allegations, process came to be issued against Applicants herein.

5. Learned Counsel for the Applicants submits that in fact Applicant No. 1 had issued notice dated 06.12.2021 to Respondent No. 2 and which was replied by her by replies dated 27.12.2021 & 29.12.2021. By drawing attention of the Court to the averments in the said reply it is submitted that no allegation of demand of any dowry was made by Respondent No. 2 against these Applicants. It is, therefore, submitted that the Applicants sought to be falsely implicated in this crime. It is submitted that though there is allegation

in the complaint that Applicant Nos. 3 and 4 were residing in the same premises, however, considering the Covid-19 pandemic period and restrictions on the movements of people and their psyche of not to come into contact with others, makes it improbable that they would go to premises of Respondent to cause harassment to her.

6. Respondent No. 2 failed to appear before this Court in spite of service of notice which indicates that she is not interested in opposing the application.

7. Learned APP after going through the record submitted that there are specific allegations in the complaint filed before the Magistrate showing involvement of all Applicants in this crime. It is submitted that there is specific allegation of demand of Rs. 1 lacs for purchase of furniture and for not meeting the said demand, the Respondent No. 2 was harassed by the Applicants. It is, therefore, his contention that this is not a fit case for quashment of the proceedings.

8. From the complaint lodged before the learned

Magistrate indicates that there are differences/disputes between the Respondent No. 2 and in-laws. Though there are allegations even against Applicant Nos. 2 to 4 about demanding dowry i.e., Rs. 1 lacs for the purchase of furniture, however, in the replies issued through Advocate by Respondent No.2 there is no whisper any such demand against any of the accused. On the contrary, it shows that since there was grievance made by the husband of the Respondent No. 2 certain specific allegations were made against him.

9. The Hon'ble the Apex Court in case of Kahkashan Kausar @ Sonam and Ors Vs.State of Bihar and Ors, (2022) 6 SCC 599 has observed as follows:

"The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of section 498A 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."

10. In the instant case, the allegations made against Applicants do not constitute offence as there is material on record to indicate that the allegations are motivated and made with an intention to rope in-laws in the criminal proceedings. The judgment of Hon'ble Apex Court in case of State of Haryana & Ors Vs. Ch. Bhajan Lal & Ors, AIR 1992 SCC 335, squarely applies to the present case.

11. Resultantly, Application is allowed in terms of prayer clause 'B' qua Applicant Nos. 2 to 4.

(R.M. JOSHI, J.)

Malani