

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

CRIMINAL APPLICATION NO.2414 OF 2021

Saptak s/o. Gajanan Mandlik
and ors.

..Applicants

Vs.

The State of Maharashtra
and anr.

..Respondents

Mr.Sk. Mazhar A. Jahagirdar, Advocate for applicants
Mr.A.R.Kale, APP for respondent no.1
Mrs.P.A.Salve, Advocate for respondent no.2

**CORAM : SMT. ANUJA PRABHUDESSAI
AND R.M.JOSHI, JJ.
DATE : FEBRUARY 09, 2023**

ORDER :-

Heard finally with the consent of learned counsel for the parties.

2. This is an application under Section 482 of the Code of Criminal Procedure for quashing FIR bearing Crime No.I-245 of 2021 registered with Akole Police Station, Akole, Dist.Ahmednagar, for the offences punishable under Sections 420, 504 and 506 read with Section 34 of Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act as well as the criminal proceedings, i.e. R.C.C. No.261

of 2021, pending on the file of learned Judicial Magistrate, First Class, Akole, Dist. Ahmednagar.

3. Heard learned counsel for the applicants, learned APP for respondent no.1 and learned counsel for respondent no.2.

4. The record reveals that the families of the applicant no.1 and the respondent no.2 had arranged marriage of the applicant no.1 with the respondent no.2. The engagement ceremony was held on 21.12.2020. Subsequently, the marriage was called off. The respondent no.2 lodged the FIR on 08.07.2021, alleging that they had given a gold chain and gold ring to the applicant no.1. She claimed that her father had spent Rs.2,50,000/- on engagement ceremony. Thereafter, the family members of the applicant no.1 demanded gold bracelet and Baleno car at the time of marriage. It is further stated that when the father of the respondent no.2 refused to pay the dowry, the applicants called off the marriage. She has accused the applicant no.1 of abusing and threatening her that he would circulate the pre-wedding photographs and would not allow the respondent no.2 to marry anyone else. Based on these allegations, the aforesaid crime came to be registered.

5. Learned counsel for the applicants states that at the time of grant of pre-arrest bail, learned Addl. Sessions Judge-3, Sangamner, vide order dated 28.07.2021, had directed the applicants not to contact the respondent no.2 herein or her relatives in any manner and further directed to submit all material, i.e. videos and photographs taken prior to the wedding, at Akole Police Station for keeping it in the safe custody. Learned counsel for the applicants submits that pursuant to the said directions, all the photographs and videos were handed over to the Investigating Officer. He states that the applicants have complied with the bail conditions. On instructions, he made statement that the applicants will not create any impediment in the life/marriage prospects of the respondent no.2. The statement is accepted.

6. It is seen that the main reason of filing the FIR is calling off the marriage after the engagement ceremony. The said allegations would not constitute an offence of cheating within the meaning of Section 415 of Indian Penal Code.

7. Learned counsel for the applicants submits that the family of the respondent no.2 had given a gold ring and chain to the applicant no.1, whereas the family of the applicants had given to the

respondent no.2 gold ornaments of 15 Tolas. Learned counsel for the applicants, on instructions, states that the respondent no.2 is not ready to return the gold ornaments received by her at the time of engagement. The gold ornaments were willingly exchanged by the parties at the time of engagement without any inducement or coercion. There was no element of deception involved. Subsequent refusal to return the gold ornaments would not per se amount to cheating particularly when the respondent no.2 has refused to return the gold ornaments received by her from the applicants and as such further refusal lacks intent to deceive. Hence, the offence under Section 420 of I.P.C. is not made out. The FIR records that the applicant had given false bio data and had told the respondent no.2 that he was friendly with another girl and had agreed to marry her under family pressure. It is, thus, contended that the marriage was not called off due to dowry demand.

8. The FIR as well as other material collected in the course of investigation do not disclose any cognizable offence. In such circumstances, compelling the applicants to face the criminal prosecution, would be an abuse of process of Court. Hence, in our considered view, this is a fit case to exercise the powers under

Section 482 of the Code of Criminal Procedure, to prevent abuse of process of Court.

9. Hence, the application is allowed in terms of prayer clause (B). Consequently, the FIR bearing Crime No.I-245 of 2021 registered with Akole Police Station, Akole, Dist.Ahmednagar, for the offences punishable under Sections 420, 504 and 506 read with Section 34 of Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act, as well as the criminal proceedings, i.e. R.C.C. No.261 of 2021, pending on the file of learned Judicial Magistrate, First Class, Akole, Dist. Ahmednagar, shall stand quashed.

10. Fee of learned counsel for the respondent no.2 (appointed) is quantified at Rs.6,000/- (Rupees Six Thousand), to be paid to her by the High Court Legal Services Sub-Committee.

[R.M. JOSHI, J.]

[SMT. ANUJA PRABHUDESSAI, J.]

KBP