

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

CRIMINAL WRIT PETITION NO. 1534 OF 2021

1. Muktabai Sheshrao Chavan
Age: 69 years, Occu.: Household,
R/o 154, Chavangalli, Loha,
Tq. Loha, Dist. Nanded
2. Satish Babarao Chavan
Age: 37 years, Occu.: Nil,
R/o Kalal Peth, Near Maroti Mandir,
Loha, Tq. Loha, Dist. Nanded
3. Sunita Satish Chavan
Age: 27 years, Occu.: Household,
R/o Kalal Peth, Near Maroti Mandir,
Loha, Tq. Loha, Dist. Nanded
4. Archana Parmeshwar Nawghare
Age: 32 years, Occu.: Household,
R/o Flat No.309, Gera Austria,
Carnzalam, Panjim, Goa

..PETITIONERS

VERSUS

1. State of Maharashtra
Through Police Station, Bhagyanagar,
Tq. & Dist. Nanded
Through it's Police Station Officer
2. Sonali Vinod Chavan
Age: 27 years, Occu.: Business,
R/o Sant Dyaneshwar Nagar (Vi),
Purna Road, Nanded,
Tq. & Dist. Nanded

..RESPONDENTS

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Mr. S.V. Kurundkar, Advocate for petitioners
Mr. P.G. Borade, A.P.P. for respondent no.1 – State
Mr. P.B. Patil, Advocate for respondent no.2

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

DATE : 07th FEBRUARY, 2023

PER COURT :

1. Heard finally at admission stage with consent of learned counsel for the respective parties.

2. This is a petition filed under Section 482 of Code of Criminal Procedure to quash the F.I.R. bearing C.R. No. 388 of 2021 registered at Bhagyanagar Police Station, Dist. Nanded and consequent Charge-sheet No. 11 of 2022 and R.C.C. No. 155 of 2022 pending on the file of Additional C.J.M., Nanded for the offences punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code.

3. Petitioner No.1 is the grand mother-in-law whereas Petitioner No.2 is the brother-in-law of the Respondent No.2. Petitioner No.3 is the wife of Petitioner No.2 and Petitioner No.4 is the married sister-in-law of the Respondent No.2. As per the F.I.R. lodged by the Respondent No.2 on 18th November, 2021, marriage of the Respondent No.2 was performed with Vinod Chavan on 21st April, 2020. According to her, for three months of the marriage she was treated well by her in-laws and thereafter they asked her to bring Rs.5 lakhs from her father for the purpose of business. It is further stated that when she informed to her husband about inability of her father to pay the said amount, her husband started suspecting her character and

started abusing and beating her. It is further stated that her in-laws also started subjecting her to mental and physical cruelty for the purpose of bringing Rs.5 lakhs from her father. She further stated that on 14th November, 2021 at around 02:00 p.m. when she was at her parental home, her husband and father-in-law came there. They threatened to kill her and also abused her for non payment of the amount for the business. On the basis of this report, aforestated crime came to be registered against the husband and in-laws of the Respondent No.2.

4. Learned counsel for the petitioners submits that on perusal of the F.I.R. the allegations can be seen only against the husband and at the most father-in-law of the Respondent No.2. According to him the allegations made against the other family members are omnibus in nature and they lack particulars. Thus, according to him even if the F.I.R. and its contents are accepted in its entirety, no cognizable offence is made out against the present petitioners.

5. As against this, learned counsel for the Respondent No.2 drew attention of this Court to the complaints lodged by the Respondent No.2 on 31st August, 2021 and 17th November, 2021 to submit that in these complaints made to the police specific allegations are levelled by the Respondent No.2 not only against the husband but also against petitioners herein. According to him, the F.I.R. is recorded by police in summary

manner without incorporating in detail the entire instances as recorded in the previous complaints. Thus according to him, there is prima facie material on record to show involvement of the present petitioners in the crime in question.

6. Perusal of F.I.R. reveals that the marriage between the Respondent No.2 and Vinod was solemnized on 21st April, 2020. As per own version of Respondent No.2, for first three months she was treated well by her in-laws. There is no dispute about the fact that since 11th August, 2020, the Respondent No.2 is staying at her parental home. It is pertinent to note that the first complaint appears to have been filed after one year thereof i.e. on 31st August, 2021, which was followed by another complaint dated 17th November, 2021. The Respondent No.2 has made her grievance for the first time after around a year since the time she started staying with her parents. The F.I.R., though makes accusations against husband but the allegations against the petitioners are omnibus and without particulars. Even last incident allegedly occurred at her parental house on 14th November, 2021, refers to husband and father-in-law only.

7. Even if the previous complaints lodged by Respondent No.2 and accusations made therein are considered, still no specific allegations are found against present petitioners. In those complaints also main grievance of the Respondent No.2 is against her husband, who had asked her to bring Rs.5

lakhs from her father for the purpose of business, causing harassment to her and suspecting her character. As far as the present petitioners are concerned, the allegations against them are general in nature such as taunting over trivial issues. Section 498-A I.P.C. would attract only in the case a woman is subjected to the cruelty to coerce her to meet unlawful demand. Every allegation against the relatives of husband do not constitute offence under this provision. Essential ingredients to constitute an offence under Section 498-A I.P.C. are absent, as against petitioners herein.

8. At this stage it would be relevant to take note of the judgment of the Hon'ble Apex Court in case of ***Kahkashan Kausar alias Sonam and Others Vs. State of Bihar and Others, (2022) 6 SCC 599***, wherein the issue involved therein was that whether the allegations made against the in-laws are in the nature of general omnibus allegations and therefore liable to be quashed. The Apex Court has observed that *“there is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A I.P.C. was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A I.P.C. is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested*

under this provision.” In paragraph no.17 of the said judgment it is observed thus :-

“... 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.”

9. In our considered view, in the instant case too the allegations against the present petitioners are omnibus in nature and lack material particulars and considering the fact that complaints are lodged after one year of Respondent No.2 started staying with her parents, there is reason to believe that lodging of report against the relatives of husband is with an intention to harass them. On the basis of prima facie consideration of those allegations, no cognizable offence is made out against the petitioners. In such circumstances, to call upon these petitioners to undergo rigour of criminal prosecution would be sheer abuse of process of law. This case therefore, is squarely covered by Illustrations (1) and (3) laid down by Hon'ble Apex Court in case of ***State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors. 1992 AIR 604.***

10. In the result, criminal writ petition is allowed in terms of prayer clauses (B), (B-1) and (B-2). Consequently, the F.I.R. bearing C.R. No. 388 of 2021 registered at Bhagyanagar Police Station, Dist. Nanded and consequent Charge-sheet No. 11 of 2022 and R.C.C. No. 155 of 2022 pending on the file of Additional C.J.M., Nanded for the offences punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code stand quashed, qua the present petitioners.

(R.M. JOSHI, J.)

SSD

(SMT. ANUJA PRABHUDESSAI, J.)