



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.198 OF 2022

Rupesh S/O Ravindra Mande and
Ors.

...Applicants

Versus

The State of Maharashtra and Anr.

...Respondents

....

Mr. Abhishek Kulkarni with Mr. Sagar Wakale for the Applicants.

Ms M.M. Deshmukh, APP for Respondent No.1-State.

Mr. Rahul Shelke with Ms Neha Sharma for Respondent No.2.

CORAM: SMT. ANUJA PRABHUDESSAI &

N.R. BORKAR, JJ.

DATED: 27th SEPTEMBER, 2023.

P.C.:-

1. Heard finally with consent of the parties.
2. Learned counsel for the Applicants under instructions seeks leave to withdraw the application on behalf of Applicant Nos.1 and 2. Leave granted. Cause title be amended.
3. This is an application under Section 482 of the Cr.PC. to quash the FIR No.319 of 2021 registered with Naupada Police Station, Thane, for the offences punishable under Sections 498-A, 406, 323, 504 and 506 r/w 34 of the IPC.

4. The aforesaid crime was registered pursuant to the FIR lodged by Respondent No.2. The marriage of Respondent No.2 was solemnised with Rupesh Mande on 28/04/2018. The Applicant No.3 is the father and the Applicant Nos.4 and 5 are the siblings of Rupesh Mande. The Respondent No.2 claims that at the time of her marriage, her parents had given her gold ornaments of 62 tola and dowry of Rs.8,00,000/-. She claims that soon after her marriage she was made to do all the household work. Her husband used to abuse and assault her over trivial issues. She suspected that her husband is having extra marital relationship with another girl. When she informed her in-laws, they tried to justify his acts and further the Applicant No.4, who had just returned from Dubai, lifted a chair to assault her. She claims that her mother-in-law has refused to return her gold ornaments. She therefore lodged the subject FIR inter alia alleging that her husband and his family members have subjected her to physical and mental cruelty.

5. Mr. Abhishek Kulkarni, learned counsel for the Applicants states that even if the allegations in the FIR are accepted in totality, the same do not disclose the essential ingredients of offence under

Section 498-A of the IPC. He submits that the Respondent No.2 has roped in all the family members in her matrimonial dispute. He has relied upon the decisions of the Apex Court in ***Geeta Mehrotra and Anr. vs. State of Uttar Pradesh and Anr. (2012) 10 SCC 741*** and ***Preeti Gupta and Anr. Vs. State of Jharkhand and Anr. (2010) 7 SCC 667.***

6. Per contra Ms Deshmukh, learned APP and Mr. Rahul Shelke, learned counsel for Respondent No.2 state that the FIR reveals that the Applicant No.3, who is the father-in-law of Respondent No.2 had instigated her husband to assault her whereas the Applicant No.4 had attempted to assault Respondent No.2 with a chair. It is submitted that the allegations in the FIR disclose offence under Section 498-A as well as 406 of the IPC as against these Applicants.

7. We have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

8. Section 482 of Cr.P.C. confers inherent powers on the

Court to give effect to any order under the Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

The scope and ambit of inherent powers has been considered by the Apex Court in *State of Haryana v/s. Ch. Bhajan Lal AIR 1992 SC 604*. The Apex Court has by way of illustration set out broad categories of cases in which the inherent powers under section 482 could be exercised to quash the FIR or the criminal proceedings. Illustration 1 which is relevant for the purpose of this case, stipulates that Court may exercise inherent powers or extraordinary jurisdiction to quash the FIR or the criminal proceedings where the allegations made in the FIR or the complaint, even if they are taken at face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

9. In *Mahmood Ali and Ors. Vs. State of UP and Ors. (Criminal Appeal No.2341 of 2023)* the Apex Court has observed that where the accused comes before the High Court invoking either inherent powers under Section 482 of Cr.PC. or the extraordinary jurisdiction under Article 226 of the Constitution, to get the FIR or criminal proceeding quashed, essentially on the ground that such

proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive of taking vengeance, then in such circumstances the High Court owes a duty to look into the FIR with care and little more closely. It was further observed that it will not be enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not as in frivolous or vexatious proceeding, the Court owes a duty to look into many other attending circumstances emerging from the records of the case over and above the averments, if need be with due and care and circumspection to try and read between the lines.

10. In *Kahakashan Kausar Vs. State of Bihar (2022) 6 SCC 599* the Apex Court has referred to the previous decisions in *Rajesh Sharma Vs. State of UP (2018) 10 SCC 472* , *Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273* , *Preeti Gupta* and *Geeta Mehrotra* (supra) has expressed concern over the misuse of Section 498-A IPC and has observed that there is increased tendency of implicating relatives of the husband in matrimonial dispute, without analysing the long-term ramifications of a trial on the complainant as well as

the accused. The Apex Court has cautioned 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 and has warned the courts from proceeding against the relatives and in-laws/family members of the husband when no prima facie case is made out against them.

11. Keeping the above propositions in mind, we have perused the averments made in the FIR lodged by Respondent No.2 against her husband and his family members. The facts narrated in the FIR reveal that the marriage between the Applicant No.1 and Respondent No.2 was solemnized on 28/04/2018. Respondent No.2 left the matrimonial home on 26/03/2019. She issued a notice dated 16/04/2021 to Applicant No.1 alleging that she was compelled to leave the matrimonial home and she was subjected to abuse, violence, mockery and embarrassment. It was stated that she was prevented from continuing her graduation and was overburdened with household chores. The allegations of physical abuse were levelled against Applicant No.1 and it was stated that his parents never protested to these violent acts. In the notice she had

claimed that they refused to return her stridhan and 8 tola gold and other documents. The allegations of extra marital relations were also made against the husband and maintenance was demanded @ Rs.50,000/- per month.

12. The Applicant No.1 responded to the said notice on 30/04/2021 denying all the allegations levelled against him and his family members. Subsequently, on 29/10/2021 Respondent No.2 lodged the FIR alleging that her husband (Applicant No.1) and his family members had subjected her to physical and mental cruelty. She has also stated that mother-in-law i.e. Applicant No.2 has refused to return 62 tolas of gold.

13. A perusal of the averments made in the FIR prima facie reveal that the accusations of physical and mental cruelty are essentially against the husband and mother-in-law. The FIR does not indicate that these Applicants, who otherwise did not share household with Respondent No.2, had demanded dowry or that they had subjected Respondent No.2 to harassment with a view to coerce her to meet any unlawful demand of dowry. The allegations in the

FIR also do not indicate that Applicant Nos.3, 4 and 5 were in any manner involved in any such willful conduct of such a nature as was likely to drive Respondent No.2 to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical). Hence, the allegations made against these Applicants do not constitute 'cruelty' within the statutory meaning provided in Section 498-A. Suffice it to say that petty quarrels cannot be termed as 'cruelty' to attract provisions of 498-A of the IPC. The allegations levelled in the FIR and other material on record even if accepted in their entirety, do not disclose any cognizable offence as against these Applicants. In such circumstances, compelling them to face criminal prosecution would be nothing but an abuse of process of law. Hence, this is a fit case to exercise powers under Section 482 of Cr.P.C. to quash the FIR qua the Applicants.

14. Under the circumstances, the application is allowed qua Applicant Nos.3, 4 and 5. The FIR No.319 of 2021 registered with Naupada Police Station, Thane, for the offences punishable under Sections 498-A, 406, 323, 504 and 506 r/w 34 of the IPC, stands quashed qua Applicant Nos.3, 4 and 5.

15. The Application stands disposed of.

(N.R. BORKAR, J.)

(SMT. ANUJA PRABHUDESSAI, J.)