

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

CRIMINAL REVISION APPLICATION NO. 212 OF 2023

1. Nitin Jayprakesh Kurhe
2. Bhimabai Jaiprakash Kurhe
3. Poonjabai Uttam Sawantasarkar
4. Sanjay Uttam Sawantasarkar
5. Meena Sanjay Sawantasarkar ..Applicants

Versus

The State of Maharashtra and Anr. ...Respondents

**WITH
CRIMINAL REVISION APPLICATION (ST.) NO. 9190 OF 2023
ALONG WITH
INTERIM APPLICATION NO. 2679 OF 2023**

1. Poonjabai Uttam Sawantasarkar
2. Sanjay Uttam Sawantasarkar
3. Meena Sanjay Sawantasarkar ..Applicants

Versus

The State of Maharashtra and Anr. ...Respondents

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Mr. S.T. Pandey a/w Mr. Arvind Singh, Ms. Anima Mishra, Ms. Ritu Singh, Mr. Anuj Singh, Ms. Angela Singha, Ms. Kajal Upadhyay i/by SBG Law, Advocate for the Applicant in both matters.

Ms. Pallavi N. Dabholkar, APP for the Respondent – State.

Ms. Pramila Kawale (A.P.I.) Aambad Police Station, Nashik City, Present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 27th JULY, 2023

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PER COURT:

1. The applicants in Criminal Revision Application No.212 of 2023 have challenged orders dated 02.03.2023 passed by the learned Additional Sessions Judge, Nashik allowing the application preferred by State under Section 216 of Cr.P.C. and order dated 02.03.2023 framing charge under Section 304-B r/w Section of IPC. Initially charge was framed against all the applicants in Criminal Revision application No.212 of 2023 by order dated 08.03.2021. The charge under Section 304-B r/w 34 IPC and Section 498-A IPC were framed alternatively. Application under Section 216 Cr.P.C. was filed on 24.11.2022. The application was allowed by order dated 02.03.2023 and it was directed that separate charge be framed under Section 304-B of IPC as additional charge. On the same day charge was framed under Section 304-B of IPC. The applicants in Criminal Revision Application No.2679 of 2023, who are applicant Nos. 3, 4 & 5 in Criminal Revision Application No.212 of 2023 has challenged the order dated 08.03.2021 framing charge. There has been delay of more than two years in challenging the said order. In fact the order dated 08.03.2021 has been culminated in subsequent order dated 02.03.2023 which is under challenge by all the applicants in Criminal Revision Application No.212 of 2023.

2. Learned Advocate for the applicant submitted that, as against the applicant Nos. 3, 4 & 5 in Criminal Revision Application No.212 of 2023, there is no evidence to frame charge for any offences. The FIR or the charge-sheet does not support the charges framed against them. As far as the applicant Nos.1 & 2 are concerned, there is no evidence to frame charge under Section 304-B of IPC. The amount transferred into the account of brother of deceased which are considered by the learned Judge while allowing the application under Section 216 of Cr.P.C. cannot be said to be a dowry. There was no previous complaints about dowry being demanded by the accused. In the absence of any evidence, the Court ought not to have frame charge under Section 304-B of IPC.

3. Learned A.P.P submitted that, reading of FIR and the statement of other witnesses prima facie makes out the case for framing charge. Role has been attributed to all the applicants. The defence of the accused cannot be considered at this stage.

4. The applicants had not applied for discharge. Initially the charge was framed on 08.03.2021, thereafter it was altered vide order dated 02.03.2023. In Criminal Revision Application (St.) No.9190 of 2023, the applicants therein who are also applicants in the other application had challenged the first order dated

08.03.2021 framing charge, whereas they are applicant Nos.3, 4 & 5 in Criminal Revision Application No.212 of 2023, wherein both the orders framing charge are challenged.

5. Perused the FIR and other statements which forms part of charge-sheet. Perused the impugned orders passed by the learned Sessions Judge. In the FIR and the other statements, overt act has been attributed to all the applicants. Prima facie case is made out for framing charge as framed by the trial Court. Hence, no case is made out to set aside impugned orders.

ORDER

- i. Criminal Revision Application No.212 of 2023 is rejected and disposed of.
- ii. Criminal Revision Application (St.) No.9190 of 2023 as well as Interim Application No.2679 of 2023 stand disposed of in view of order passed in Criminal Revision Application No.212 of 2023.

(PRAKASH D. NAIK, J.)