



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION NO. 612 OF 2022

1. Swati @ Mrunali Vijayrao Khergade,
Aged about 33 years, Occ. Nil,
 2. Vijayrao Vasantrao Khergade, aged
about 35 years, Occ – Business
- Applicant no.1 and 2 are resident of
Radha Krishna Nagar, Kanhan, Tahsil
Kanhan, District Nagpur.
3. Mitali Anish Bele, Aged about 26 years,
Occ – Nil,
 4. Anish Wamanrao Bele, Aged about 38
years, Occ – Service

Applicant no.3 & 4 are resident of Ward
No.2, Chikana, Post Mouda, Tahsil
Kamptee, District Nagpur.

... APPLICANTS

VERSUS

1. The State of Maharashtra through its
Police Station Officer, Mouda, Tahsil
and District Nagpur.
2. Monali Pritam Ughade, aged about
25 years, Occ – Nil, Resident of c/o
Haribhau Punjai Gharjare, Bhawani
Nagar, Near Ganesh Mandir, Pardi,
Nagpur.

... NON-APPLICANTS.

Shri A. Daga, Advocate for the applicants.
Shri Doifode, Addl.PP for the State.
Shri Rahul Shukla, Advocate for the non-applicant no.2.

CORAM : VINAY JOSHI AND M.W. CHANDWANI, JJ.
DATED : 18.10.2023.

ORAL JUDGMENT : (Per : Vinay Joshi, J.)

Heard. **ADMIT.**

2. By consent of learned Counsel appearing for the parties, the matter is taken up for final disposal.

3. This is an application seeking to quash the First Information Report (FIR) vide Crime No.176 of 2022 registered with the Mauda Police station, Nagpur Rural for the offence punishable under Sections 498-A read with Section 34 of the Indian Penal Code ('IPC').

4. The applicants before us are two married sisters-in-law and their respective husband of the informant lady. The informant's marriage took place on 24.02.2019. After marriage, the informant lady resumed to cohabit in the company of her husband and in-laws. She was subjected to harassment within the meaning of Section 498-A of

the IPC, and therefore, she lodged the Police report.

5. It is the informant's case that after the eight month's pregnancy, her husband and in-laws started to harass her physically as well as mentally. They used to humiliate and taunt her on various counts. When she has delivered a baby, the husband and parents-in-law did not bother to see the new born for considerable period. When the informant returned to her matrimonial house after delivery, her husband and in-laws expressed displeasure on account that she has delivered a baby girl. They have also expressed that the husband is desirous to perform second marriage. She stated that the husband and in-laws started to raise unlawful monetary demand of Rs.10 lakhs and on said count she was harassed. The Police report states that though on 14.07.2020, there was a meeting to patch up the differences but soon after the meeting, again the husband and in-laws started to insist her to comply monetary demand. Few other instances were quoted by the informant stating about her attempt to commit suicide by getting rid of harassment.

6. So far as the present applicants are concerned, admittedly they are two married sisters and their respective husband. It is informed that applicant no.1 Swati got married with applicant no.2 on

05.05.2011 whilst applicant no.3 Mitali got married with applicant no.4 on 30.04.2016, meaning thereby both got married much earlier than the marriage of couple, which took place on 24.02.2019. It is not in dispute that since the marriage, the applicants are residing separately with their respective families at different places. Learned Counsel appearing for the informant would submit though they are staying separately however their matrimonial houses are within close proximity.

7. The entire police report only suggests an isolated incident naming the act of the applicants. The informant stated that the applicants, who are the married sisters and their husband, came to the house of couple, asked the informant's husband to insist her to bring Rs.10 lakhs from her maternal house and shall not allow her to stay unless demand is complied. Besides the said allegation, we do not find any slightest reference about the act of applicants in entire report, which bears several instances specifying the acts of the husband and in-laws. The question falls for consideration is whether this single isolated reference could be considered to put the applicants on full fledged criminal trial.

8. Learned Counsel appearing for the applicants has attracted

our attention to the decision of the Supreme Court in case of *Kahkashan Kausar alisa Sonam and ors. vs. State of Bihar and ors. 2022 SCC OnLine SC 162*, wherein the Supreme Court took a note of rising tendency of women in involving all family members in the matrimonial proceedings perhaps to pressurize the husband. Certainly, this Court shall be on guard to check such tendency if on facts, it reveals that there is no *prima facie* case to involve these persons in the trial, which is a matter of serious concern. Besides that the Supreme Court has also expressed that on the basis of vague and general omnibus allegations, the family members shall not be howled in the criminal prosecution. In the light of those parameters, we have reassessed the entire material. Concededly, the informant has not stated a specific day, date or even an occasion when these two sisters came with their husband to her matrimonial house and polluted her husband.

9. True, we are not expecting the exact day or date of the occurrence, but there is no reference that on the occasion of any festival or during which period all of them came to their house to expose their feelings. There is no specific allegation that as to who among the applicants took lead or when it was disclosed to the informant. The allegations are purely general and vague. Rather, the entire tenor of the report concentrates on husband and in-laws.

10. In response, learned Counsel for the informant would submit that the husband has three sisters. If the informant was intending to involve the entire family, she could not have spared the third sister. Endeavor was made to impress the genuineness of the report as there was non-involvement of the entire family, i.e., the third sister. In order to appreciate the matter in proper perspective, we have asked as to where the third sister is staying. In response, it is informed that the third sister is married and residing with her husband at Pune. True, the third sister is spared but there may be a reason that it is difficult to establish the allegation since she is residing far away, therefore, merely because the third sister is not named, it would not vouch us that the rest allegations are genuine.

11. Taking over all view of the matter, we are satisfied that the FIR does not make out a *prima facie* case against these applicants. Rather the reference is vague and omnibus, which is not sufficient to our mind to involve them in a criminal prosecution, which has multiple repercussions. In view of that, following order :

- (a) The Criminal Application is allowed.
- (b) We hereby quash and set aside the Crime No.176 of 2022 registered with the Mauda Police station, Nagpur Rural for

the offence punishable under Sections 498-A read with Section 34 of the Indian Penal Code as regards to the applicants.

12. The application stands disposed of accordingly.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)

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