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crapln 193.23 R.odt

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

CRIMINAL APPLICATION NO. 193 OF 2023

1. Eknath S/o. Kashinath Ingle,
Age 59 years, Occ. Retired,
R/o. Sudhakar Nagar, Satara Parisar
Aurangabad, Dist. Aurangabad
(father in law of respondent No.2)
2. Rajani w/o. Eknath Ingle
age 55 yeares, Occ. Household,
R/o. Sudhakar Nagar, Satara Parisar
Aurangabad, Dist. Aurangabad
(Mother in law of respondent No.2)
3. Chetan S/o. Eknath Ingle,
Age 33 years, Occ. Service,
R/o. Sudhakar Nagar, Satara Parisar
Aurangabad, Dist. Aurangabad
(Brother in law of respondent No.2)

.. APPLICANTS.

VERSUS

1. The State of Maharashtra,
through Satara Police Station,
Satara, Dist. Aurangabad.
2. Dipali Shrikant Ingle
Age 31 years,
R/o. C/o. Vishwanath Sonu Sangalkar,
R/o. Ranjangaon Shenpunji,
Taluka Gangapur, Dist. Aurangabad.

.. RESPONDENTS.

Mr. D.D. Chaudhari, Advocate for applicants.
Mr. A.M. Phule, APP for respondent No.1.
Mr. R.C. Chavan, Advocate for respondent No.2

**CORAM : SMT. VIBHA KANKANWADI
& S.G. CHAPALGAONKAR, JJ.**

DATE : 12th SEPTEMBER, 2024.

JUDGMENT [PER S.G. CHAPALGAONKAR, J.]. :-

1. The applicants have approached this court under Section 482 of the Code of Criminal Procedure with a prayer to quash and set aside the charge sheet bearing No. 72 of 2020 in Crime No. 53 of 2020 registered with Police Station, Satara, District Aurangabad for the offences punishable under Sections 498-A, 323, 504, 506 r/w. 34 of IPC.

2. Respondent No.2 lodged FIR dated 28.2.2020 alleging that she has been married on 25.6.2019 with accused Shrikant Eknath Ingale as per the Hindu rites and customs. The marriage expenses were born by her father. After marriage, she resided at her matrimonial home alongwith in-laws. Initially, she was treated well for two months. Lateron, her mother in law, brother in law, and family members were teasing her under he pretext that she has no skills of cooking. The marriage was not performed by her father as per their standard etc. It is further alleged that her father in law used unparliamentary language against her parents and gave threats to perform second marriage of her husband. A demand of Rs. 5 Lakhs was raised from her father to secure employment of husband. On 1st November, 2019, she went to her maternal home and informed her parents and brother about the ill-treatment. Her family members attempted conciliation. However, there was persistent demand for Rs. 5 Lakhs and ill-treatment by in laws for that purpose. In pursuance of the aforesaid information, Crime No. 53 of 2020 came to be registered with Police Station, Satara, District

Aurangabad against in all 4 accused persons. On completion of investigation charge sheet has been filed against them.

3. Applicant Nos. 2 to 4, i.e. father in law, mother in law, brother in law of respondent No.2 are before this court. Mr. D.D. Chaudhari, learned advocate for the applicants submits that the applicants have been falsely implicated in aforesaid crime. Respondent No.2 was not interested to live with her husband. She left the matrimonial home on her own accord. Earlier, she had filed complaint in Crime No. 9 of 2020 against her husband for the offence punishable under Sections 324, 323 of IPC. Upon trial, her husband has been acquitted vide judgment and order dated 21.9.2022. The Criminal Misc. Case No. 5 of 2021 filed under Section 12 of the Domestic Violence Act by respondent No.2 is also disposed as withdrawn vide order dated 21.9.2022. The allegations in the FIR and charge sheet are vague and omnibus and do not constitute any offences as charged. He would, therefore, urge that the charge sheet and consequential proceeding pending against the applicants may be quashed and set aside.

4. Per contra, Mr. A.M. Phule, learned APP and Mr. R.C. Chavan, learned advocate for respondent No.2 vehemently oppose the prayer in the application contending that the contents of the charge sheet clearly stipulate that respondent No.2 was ill-treated and harassed by her in-laws in pursuance of demand of Rs. 5 Lakhs. The contents of the FIR are duly supported by the statement of witnesses in the charge sheet. As such, there is triable case against the applicants. Consequently, they urge to reject the application.

5. We have considered the submissions advanced by learned

advocates for the respective parties. We have perused the contents of the charge sheet and the statement of witnesses annexed alongwith the charge sheet. The FIR is lodged on 28.2.2020 i.e. within six months of marriage. The first part of the FIR stipulates that the respondent No.2 resided with her in-laws in shared house at Surana Nagar, Satara Parisar, where she was treated well for a period of two months. She alleges that thereafter she was teased on various counts and lastly states that demand of Rs. 5 Lakhs was raised to secure employment for her husband and ill-treatment continued in pursuance of said demand. She states that on 1st November, 2019, she left the matrimonial home and while residing with her parents, disclosed about the ill-treatment at the hands of in-laws and thereafter, when she attempted to return to matrimonial home, she was driven out of the house. The minute scrutiny of aforesaid stipulation, depict that no particulars of ill-treatment or overt act as against applicants have been specified in the FIR. The contents of FIR so far as it relates to applicants are omnibus and vague. Even nature of ill-treatment as alleged, is unspecific. Apparently, the respondent No.2 resided at her matrimonial house hardly for a period of 4 months and as per her own statement, she was treated well for the initial period of 2-3 months. In this background, it would be necessary to refer to the language employed under Section 498-A of the Indian Penal Code, which reads thus :-

“498A. Husband or relative of husband of a woman subjecting her to cruelty.—

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.Explanation.— For the purpose of this section, “cruelty” means—(a)any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to

cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

6. Even if the allegations made in FIR are taken as it is, there is nothing to demonstrate that respondent No.2 was harassed or ill-treated in pursuance of demand of dowry or ill-treatment of such a nature that would drive her to commit suicide. Perusal of the statement of witnesses which are made part of charge sheet would also demonstrate that stereo-type and omnibus allegations are employed against the in-laws without specifications and particulars of so called ill-treatment. The ingredients of offence punishable under Section 498-A are not discernible from the contents of the statements of witnesses, so far as the applicants are concerned.

7. It appears that respondent No.2 had lodged FIR in Crime No. 9 of 2020 dated 14.1.2020 against her husband and upon trial, he has been acquitted. The proceeding under Section 12 of the Domestic Violence Act, 2005 was instituted by respondent No.2 against husband and present applicants i.e. family members of her husband has also been withdrawn.

8. Taking into consideration the overall conduct of respondent No.2, there is reason to believe that the respondent No.2 has attempted to implicate all the family members of her husband with intention to pressurize them. At this stage, reference can be given to the observations made by the Supreme Court of India in the matter of ***Preeti Gupta Vs.***

State of Jharkhand, reported in (2010)7 SCC 667 wherein the apex court observed in para. 30, 32 and 34 as under :-

“30. It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this Court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

32. It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.”

12. In yet another case of ***Kahkashan Kausar Vs. State of Bihar reported in (2022)6 SCC 599***, the Supreme Court after taking stock of various decisions, rendered by the supreme Court in the subject matter, observed in para. 17 as under.

“ The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of [section 498A](#) 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. Keeping in mind aforesaid observations of the Supreme court, if the contents of the FIR and charge sheet in present case are considered, we find that this is a fit case for exercise of jurisdiction under Section 482 of Cr.P.C. to quash and set aside the FIR and consequential proceeding so far as the applicants. Hence, we proceed to allow the application and pass the following order :-

ORDER

[I] Criminal application is allowed;

[ii] Charge sheet No. 72 of 2020 in Crime No.53 of 2020 registered with police station, Satara, Dist. Aurangabad for the offences punishable under Sections 498-A, 323, 504, 506 r/w. 34 of IPC and consequential criminal proceeding is hereby quashed and set aside to the extent of applicants herein.

[iii] The application stands disposed of.

[S.G. CHAPALGAONKAR, J]

[SMT. VIBHA KANKANWADI, J]

grt/-