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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 216 OF 2024.

- 1] Soheli Chand Patel Syed,
Age 24 years, Occ. Student,
resident of Hussain Colony,
Plot No. 56, Lane No.6.
Garkheda Parisar, Aurangabad.
- 2] Afsana Begum Chand Patel Syed,
Age 45 years, Occ. Household,
resident of as above.
- 3] Chand Patel Zumbhar Patel Syed,
age 49 years, Occ. Teacher,
resident of as above. (Parents in law)
- 4] Firdos Begum Sameer Shaikh,
Age 24 years, Occ. Household,
resident of as above. (Sister in law)
- 5] Fatema Begum w/o. Zuber Patel Syed,
Age 75 years, Occ Household,
resident of as above. (Grandmother in law)

.. APPLICANTS.

VERSUS

- 1] The State of Maharashtra
through Peth Police Station, Beed.
- 2] Muskan Begum w/o. Soheli Syed,
Age 20 years, Occ. Household,
resident of as above.
At present Dhage Colony, Barshi Naka,
Beed. .. RESPONDENTS.

Ms. A.N. Ansari, Advocate for the applicants.
Mr. G.A. Kulkarni, APP for State.

Mr. S.R. Shirsath, Advocate for respondent No.2.

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

DATE : 30TH SEPTEMBER, 2024.

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

1. The applicants have approached this court under Section 482 of Cr.P.C. praying to quash the FIR in crime No. 274 of 2023 registered with Police Station, Peth Beed, as well as proceeding in RCC No. 717 of 2023, pending before the Chief Judicial Magistrate, Beed. for the offences punishable under sections 498-A, 323, 504, 506 r/w 34 of IPC.

2. The respondent No.2 lodged report dated 29.10.2023 with Police Station, alleging that on 2.3.2021, she married with Syed Sohail Syed Chand Patel r/o. Garkheda, Sambhajinagar, as per Muslim customs and rites. Her father in law is a Lecturer. The marriage ceremony was arranged suitable to his status. The expenditure of Rs. 10 Lakhs was incurred by her father. After marriage, she resided with in-laws at Hussain Colony, Garkheda Parisar. Since the date of marriage, her in-laws started teasing her on account of mis-management in the marriage. Consequently, she suffered mental torture. She reported parents about the ill-treatment meted to her. However, they advised her to bear for some time. It is further alleged that sister in law, namely, Firdos Begam, married with her brother Shaikh Samir who resides at Beed. Since Firdos is grown up in Sambhajinagar City, lifestyle in the small town was not liked by her. Therefore, frequently she used to visit maternal home

at Sambhajinagar. Even for that reason, the in-laws were teasing her. Thereafter, the demand was raised to bring an amount of Rs. 5 Lakhs from her parents for investment in business of her husband. She resisted the demand. She was again ill-treated. On 23.3.2023, Firdos returned to Sambhajinagar since her mental health was disturbed. At the same time, husband of informant raised assault and driven her out of home in pursuance of demand of Rs. 5 Lakhs. On 23.3.2023, father took her back to Beed. Since then, she is residing in the maternal home.

3. On the basis of aforesaid information Crime No. 274 of 2023 has been registered with Police Station, Peth, District Beed. The investigation progressed. On conclusion of investigation, charge sheet has been filed against in all 5 accused- applicants. At Present R.C.C. No. 717 of 2023 is pending before the C.J.M., Beed, for trial.

4. At the outset, Ms. A.N. Ansari, learned advocate for the applicants, on instructions, seeks permission to withdraw the application to the extent of applicant No.1 husband and advanced submissions for applicant Nos. 2 to 5. Consequently, the application to the extent of applicant No.1 is disposed of as withdrawn and considered to the extent of applicant Nos. 2 to 5 only.

5. Ms. A.N. Ansari, learned advocate appearing for the applicants submits that the allegations in the FIR are false. The sister in law of respondent No.2 has been married with her brother. There is matrimonial discord between the brother of respondent No.2 and her sister in law i.e. Firdos Begam. Therefore, on the basis of false information all the applicants have been implicated in the aforesaid

crime.

6. Ms. Ansari further submits that the respondent No.2 has dispute with her husband, therefore, on the basis of omnibus allegations, all the family members are implicated in this crime. No offence can be made out against the applicants under Section 498A of IPC or any other penal provision.

7. Per contra, Mr. G.A. Kulkarni, learned APP for State and Mr. S.R. Shirsath appearing for respondent No.2 vehemently opposed application contending that the stipulations in the FIR as well as statement of witnesses recorded during the course of investigation are sufficient to make out charged offences. There is sufficient material to go ahead with the trial. They would, therefore, urge that no interference is warranted under inherent powers of this Court.

8. We have considered the submissions advanced by learned advocates on behalf of respective parties. We have minutely considered the stipulations in the FIR as well as statements recorded during the course of investigation and other material in the charge sheet. It is apparent that the respondent No.2 married with applicant No.1 on 2.3.2021. At the same time, sister in law of respondent No.2 married with brother of respondent No. 2. After marriage the respondent No.2 resided with her husband and in-laws at Sambhajingar, whereas, her sister in law resided at Beed. It appears that within short period of marriage, the dispute arose between both the families and they filed complaints against each other. The sister in law of respondent No.2 came back to her maternal home at Sambhajinagar. Similarly, respondent No.2

went back to her maternal home at Beed. In this background, if the averments in the FIR are considered, it can be observed that omnibus allegations are made against all the in-laws, that they teased her regarding mismanagement in marriage and for failure to perform the marriage as per standard. The FIR further alleges that sister in law used to frequently visit Sambhajinagar and reside with her parents as she was not liking stay in small town. The allegations made that in February-March 2023, in-laws raised demand of Rs. 5 Lakhs and ill-treated her. It is alleged that her husband raised physical assault on her. Thereafter, she called her parents. Her father took her back to the maternal home at Beed. Since then, she is residing with parents. All efforts for reconciliation have been failed. Consequently, it is alleged that accused persons have committed offences as charged.

9. Pertinently, the allegations are omnibus. Specifications of ill-treatment at the hands of applicant Nos. 2 to 5 are not made out. Omnibus averments are made that all the in-laws raised demand of Rs. 5 Lakhs and ill-treated her in pursuance of such demand. But specific over acts amounting the ill-treatment at the hands of applicant Nos. 2 to 5 are not discernible from the contents of the FIR. On completion of investigation, charge sheet has been filed, wherein, statements of parents and brother of respondent No.2 are annexed. All the statements are unspecific and stereo-type. Therefore, from the contents of FIR or charge sheet, no offence can be made out against applicant Nos. 2 to 5.

10. At this it would be apposite to refer to the observations of the Supreme Court of India as regards rising trend of false implication of the in-laws in matrimonial dispute. the Supreme Court 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 :-

“ 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.”

11. 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.

12. Similarly, in the case of ***Sushilkumar Sharma vs. Union of India and others, reported in (2005) 6 SCC 281***, the Supreme Court observed in para. 19 as under :-

“19. *The object of the provision is prevention of the dowry menace. But as has been rightly contended by the petitioner many instances have come to light where the complaints are not bonafide and have filed with oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignominy suffered during and prior to trial. Sometimes adverse media coverage adds to the misery. The question, therefore, is what remedial measures can be taken to prevent abuse of the well-intentioned provision. Merely because the provision is constitutional and intra vires, does not give a licence to unscrupulous persons to wreck personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with. Till then the Courts have to take care of the situation within the existing frame work. As noted the object is to strike at the roots of dowry menace. But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used a shield and not assassins' weapon. If cry of "wolf" is made too often as a prank assistance and protection may not be available when the actual "wolf" appears. There is no question of investigating agency and Courts casually dealing with the allegations. They cannot follow any strait jacket formula in the matters relating to dowry tortures, deaths and cruelty. It cannot be lost sight of that ultimate objective of every legal system is to arrive at truth, punish the guilty and protect the innocent. There is no scope for any pre-conceived notion or view. It is strenuously argued by the petitioner that the investigating agencies and the courts start with the presumption that the accused persons are guilty and that the complainant is speaking the truth. This is too wide available and generalized statement. Certain statutory*

presumption are drawn which again are reputable. It is to be noted that the role of the investigating agencies and the courts is that of watch dog and not of a bloodhound. It should be their effort to see that in innocent person is not made to suffer on account of unfounded, baseless and malicious allegations. It is equally indisputable that in many cases no direct evidence is available and the courts have to act on circumstantial evidence. While dealing with such cases, the law laid down relating to circumstantial evidence has to be kept in view.”

13. In the light of aforesaid observations, if the material placed before us in the form of FIR and charge sheet is scrutinized, there is reason to believe that it is a case of over-implication. The applicant NO.2 is mother in law of respondent No.2. However, except omnibus allegations regarding mental torture at the hands of all in-laws, no specification regarding ill-treatment by applicant No.2 are given. Same is the case in respect of applicant Nos. 3 to 5. The allegations as regards to assault are limited against husband only. In that view of the matter, we are of the considered view that continuation of criminal proceeding against applicant Nos. 2 to 5 on the basis of omnibus allegations in the FIR and un-specific material in the charge sheet would be abuse of process of law. Consequently, we proceed to pass the following order :-

ORDER

- [I] The application is partly allowed;
- [ii] The FIR dated 29.10.2023 in Crime No.274 of 2023 registered with Peth, Beed Police Station, for the offence punishable under sections 498-A, 323, 504, 506 r/w 34 of IPC and consequential criminal proceeding in R.C.C. No. 717 of 2023 pending before Chief Judicial Magistrate, Beed is hereby quashed and set aside to the extent of applicant Nos. 2 to 5 (accused Nos. 2 to 5).

[iii] Criminal application is disposed of as withdrawn to the extent of applicant No.1 (accused No.1). Hence, criminal proceeding to continue against him in accordance with law.

[iv] Criminal application is disposed of.

[S.G. CHAPALGAONKAR, J]

[SMT. VIBHA KANKANWADI, J]

grt/-