



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

CRIMINAL APPLICATION NO. 435 OF 2023

1. Sujata Dattatraya Bhande
Age-45 years, Occ : Service,
R/o Gandhi Nagar, Behind Bus Stand,
Kallam, Tq. Kallam, Dist. Osmanabad.
2. Ajay Dattatraya Bhande
Age-27 years, Occ : Private Job,
R/o Gandhi Nagar, Behind Bus Stand,
Kallam, Tq. Kallam, Dist. Osmanabad.
3. Vikram Balbhim Pachange
Age-43 years, Occ : Service,
R/o Sonai Niwas, Kalamath, Mahajan Galli,
Omerga, Tq. Omerga, Dist. Osmanabad.
4. Dhananjay @ Sunil Balbhim Pachange
Age-48 years, Occ : Business,
R/o Sonai Niwas, Kalamath, Mahajan Galli,
Omerga, Tq. Omerga, Dist. Osmanabad.
5. Sarika Vikram Pachange
Age-37 years, Occ : Household,
R/o Sonai Niwas, Kalamath, Mahajan Galli,
Omerga, Tq. Omerga, Dist. Osmanabad.

..APPLICANTS

-VERSUS-

1. The State of Maharashtra,
Through Police Station,
Ahmednagar Camp, Dist. Ahmednagar.
2. Nikita Akshay Bhande
Age- 25 years, Occ : Household,
R/o C/o. Navnath Rangnath Ubale
Savta Nagar, Bhingar, Tq. & Dist. Ahmednagar

..RESPONDENTS

...
Advocate for the applicants : Ms. Pooja S. Ingle h/d Mr.S.J. Salunke
APP for Respondent- State : Mr. A.M. Phule
Advocate for Respondent No.2 : Mr. M.G. Kochar (appointed)
...

**CORAM : SMT. VIBHA KANKANWADI AND
ROHIT W. JOSHI, JJ.**

DATED : 05th DECEMBER, 2024.

JUDGMENT (PER ROHIT W. JOSHI, J.) :

. The present criminal application is filed under Section 482 of the Code of Criminal Procedure (Cr.P.C.) to quash FIR No.613/2022 registered with Police Station Ahmednagar Camp, Dist. Ahmednagar on 12.12.2022 for offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code (IPC). After filing of the present application, Regular Criminal Case No.1272/2023 came to be registered pursuant to the said F.I.R., which is pending on the file of the learned Judicial Magistrate, First Class, Ahmednagar. The criminal application is amended in order to challenge the said criminal case as well.

2. Respondent No.2 is the informant. Her relations with the applicants are as under :-

1. Applicant no.1 – mother-in-law
2. Applicant No.2 – brother-in-law
3. Applicant No.3 – maternal uncle of applicant no.3.

4. Applicant No.4 – maternal uncle of applicant no.3.
5. Applicant No.5- wife of maternal uncle/applicant no.3.

3. Respondent No.2 has stated in FIR that her marriage with one Akshay Bhande, son of applicant No.1 was solemnized on 04.02.2020. They are blessed with a son named “Rudraksha”, who was around two years old on the date of lodging of FIR. Respondent No.2 states that she is residing with her parents for a period of 8 months as on the date of lodging of FIR i.e. from somewhere around April, 2022. The in-laws treated her well for period of around six months after her marriage. After period of around six months, she went to Pune to reside along with her husband and immediately within a period of 15 days thereafter, due to Covid-19 lock-down she and her husband went to reside at the residence of applicant no.3, who is maternal uncle of her husband. She has alleged that her husband used to beat and abuse her on instigation of applicant nos.3 to 5. She states that after staying with applicant no.3 for some period, she and her husband returned to Kallam and resided with applicant no.1- mother-in-law and applicant no.2 – brother-in-law. She has alleged that applicant nos.1 and 2 along with her husband used to harass her at the instance of applicant nos.3 to 5. Allegation is made that the husband and applicant nos.1 and 2 asked her to get bullet motorcycle and gold from her parents.

4. We have heard Ms. Pooja S. Ingle, learned Advocate appearing for the applicants. She states that the allegations in the FIR so also the statements of the witnesses that have been recorded during the course of investigation are absolutely vague. The allegations are lacking in all particulars and do not make out any case for continuation of prosecution under Section 498-A of IPC. The date, time and tentative period of alleged demand of dowry and harassment are not mentioned by respondent no.2 or other witnesses. She states that there is some misunderstanding between respondent no.2 and her husband and as a consequence of that the respondent no.2 has roped in not only his mother and brother, but also maternal uncles and wife of one of the maternal uncles by making baseless allegations regarding demand of dowry and harassment. She has drawn our attention to the statement dated 16.07.2022 made by respondent No.2 before *Bharosa* Cell, which discloses that relations between respondent no.2 and her in-laws were strained and that she had made all sorts of allegations against her in-laws. However, in the statement made before *Bharosa* Cell, there is no allegation regarding demand of dowry or any ill treatment on account of failure to fulfill the demand of dowry. She has particularly drawn our attention to a statement wherein she has stated that she is not ready to cohabit with her husband because he did not accede to certain conditions put by her for residing together.

5. As against this, Mr. A.M. Phule, learned APP and Mr. M.G. Kochar, learned Advocate for respondent No.2 argue that uncontroverted allegations in FIR certainly make out a case for prosecution to continue and that this Court should not interfere in the matter in exercise of its power under Section 482 of the Cr.P.C. As regards the statement made before *Bharosa* Cell, learned Advocate for respondent No.2 contends that respondent No.2 wanted a reconciliation, and therefore, did not refer to demand for dowry in the said statement.

6. Having perused FIR and statements of the witnesses, which form a part of charge-sheet, we find that the allegations against the applicants are vague and completely lacking in material particulars. The period of alleged demand is not mentioned. The demand is stated to be for a motorcycle and gold. However, quantity of gold is also not mentioned in FIR or statements. Apart from this, in her statement before *Bharosa* Cell dated 16.07.2022 there is no reference to any demand for dowry or harassment on that count. It will be pertinent to state that *Bharosa* Cell is attached to a Police Station where parties go only after there is a dispute. Respondent No.2 has stated in FIR that since April, 2022, she was not residing in her matrimonial home. The allegation regarding demand for dowry, made in FIR does not find place in the statements made before the *Bharosa* Cell. The said

statement is not disputed during the course of hearing. The statement clearly indicates that due to matrimonial discord between the husband and wife, respondent No.2 was not willing to cohabit with her husband. It also appears from the statement before the *Bharosa* Cell that there is discord amongst respondent No.2 on one hand and her in-laws on the other. It clearly appears from the record that the present applicants have been roped in a criminal matter by making vague and unspecific allegations regarding demand for dowry. The statements of witnesses are also unspecific most importantly quantity of gold allegedly demanded is also not specified.

7. The entire material considered together as a whole does not make out any case to allow the prosecution to continue for offence under Section 498-A of IPC. Continuation of prosecution against the applicants will lead to abuse of the legal process and traversing of justice. Although, the other sections are non-cognizable, the material on record not specific to make out the offence under the said provisions also. In view of the circumstances, we are of the opinion that the criminal proceedings are liable to be quashed against applicants. We therefore pass the following order :-

ORDER

- (i) The application is allowed.

(ii) FIR No.613/2022 registered against applicant no.1 - Sujata Dattatraya Bhande, applicant no.2 - Ajay Dattatraya Bhande, applicant no.3 - Vikram Balbhim Pachange, applicant no.4 - Dhananjay @ Sunil Balbhim Pachange and applicant no.5 - Sarika Vikram Pachange, with Police Station Ahmednagar Camp, Dist. Ahmednagar on 12.12.2022 for offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and Regular Criminal Case No.1272/2023 pending on the file of the learned Judicial Magistrate, First Class, Ahmednagar, are hereby quashed.

(iii) The fees of learned Advocate Mr. M.G. Kochar appointed to represent respondent No.2, is quantified at Rs.7,000/- (Rupees Seven Thousand), to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

sga/