



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.1081 OF 2022**

1. Jalindar S/o. Dinkar Sanap, (Husband)
Age: 30 years, Occu. Nil,
R/o. Dehu Road, Alandi, District: Pune.
2. Dinkar S/o. Dadarao Sanap, (Father in law)
Age: 70 years, Occu. Agril.,
3. Parubai W/o. Dinkar Sanap, (Mother in law)
Age: 65 years, Occu. Agril.,
4. Vaijnath S/o. Dinkar Sanap, (Brother in law)
Age: 33 years, Occu. Agril.,
5. Manisha W/o. Vaijnath Sanap, (Sister in law)
Age: 28 years, Occu. Agril.,
6. Vaishali Dinkar Sanap, (Sister in law)
Age: 37 years, Occu. Agril.,
All R/o. Hiwarsinga,
Tq. Shirur (K), District: Beed. ..Applicant

Versus

1. The State of Maharashtra,
Through Police Inspector,
Police Station, Dharur,
Tq. Dharur, District Beed.
2. Radha W/o. Jalindar Sanap,
(Radha D/o.Mahadeo Bade)
Age: 25 years, Occu. Agril.,
R/o. Gaodara, Tq. Dharur,
District: Beed. ..Respondents

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Mr. A. N. Nagargoje, Advocate for the Applicants.
Mr. M. K. Goyanka, APP for Respondent No.1.
Mr. S. R. Kedar, Advocate for Respondent No.2.

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

DATED : 03rd SEPTEMBER, 2024.

ORDER (Per S. G. Chapalgaonkar, J.):-

1. The applicants have approached this Court under Section 482 of the Criminal Procedure Code praying to quash and set aside FIR vide Crime No.19/2022 dated 05.02.2022 registered with Dharur Police Station, Tq. Dharur, Dist. Beed for offences punishable under Sections 498-A, 504, 506 of the Indian Penal Code. Since during pendency of application, charge-sheet has been filed, the applicants have added prayer to quash and set aside charge-sheet and consequential criminal proceeding in RCC No.52/2022 pending before Judicial Magistrate First Class at Dharur.

2. Initially the application was filed on behalf of all the accused persons named in the FIR. However, during hearing of the application, prayer was made seeking permission to withdraw application to the extent of applicant nos.1 to 3 and advance submissions only to the extent of applicant nos.4 to 6. Such prayer was allowed. Consequently, application to the extent of applicant nos.1 to 3 has been dismissed as withdrawn and considered only to the extent of applicant nos.4 to 6 herein.

3. Mr. Nagargoje, learned Advocate appearing for the applicants vehemently submits that applicants have been falsely implicated in aforesaid crime. The contents of FIR are bereft to make out any offence against applicants. Although applicants are named in the FIR, allegations are vague and omnibus. The respondent no.2 may have her grievance against applicant no.1, however, the contents of the FIR would show that the attempt is made to implicate all the family members and relatives of the husband with ulterior motive to pressurize them. Mr. Nagargoje

would submit that applicant no.4 is brother-in-law, whereas applicant nos.5 and 6 are co-sister and married sister-in-law of respondent no.2 respectively. They are unconcerned with the family affairs of respondent no.2 and her husband. Mr. Nagargoje would further invite attention of this Court to the contents of charge-sheet to contend that except stereotype omnibus statements of the father, mother, brother, maternal aunt and husband of maternal aunt, no other evidence is made part of the charge-sheet. He would, therefore, urge to quash and set aside FIR and criminal proceeding in RCC No.52/2022 pending before Judicial Magistrate First Class at Dharur.

4. Per contra Mr. Goyanka, learned APP for the State and Mr. Kedar, learned Advocate appearing for respondent no.2 vehemently opposes the prayers in the application. They would submit that FIR is not an encyclopedia. The respondent no.2 has specifically alleged that she was harassed on account of illegal demand by in-laws including applicants herein. There is evidence to show that all the applicants were involved in commission of offence. In the matrimonial matters, the evidence of only close relatives would be available to state about ill-treatment suffered by woman at the hands of in-laws. According to them, the material in the charge-sheet is sufficient for proceeding with trial against applicants. Hence, they urge to reject the application.

5. We have considered submissions advanced by the learned Advocates appearing for respective parties. We have gone through the contents of FIR and material in the charge-sheet. The Supreme Court of India in case of ***Preeti Gupta and Another Vs. State of Jharkhand and Another***¹ made certain observations, which are as regards to the matrimonial matters and increasing

¹ AIR 2010 SC 3363.

tendency of misusing penal provisions under Section 498-A of the Indian Penal Code. The observations in paragraph nos.30 and 32 are relevant in present case, which reads thus:

“30. 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.

32. 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.”

6. Keeping in mind aforesaid observations, if contents of FIR are scanned, it is apparent that respondent no.2 married with applicant no.1 on 23.06.2018 at Kapildhar, Dist. Beed. In-laws of respondent no.2 are resident of village Hiwarsinga, Tq. Shirur (Kasar), Dist. Beed. Within 15 days of marriage, respondent no.2 went to Alandi (Pune) where her husband was serving. Till outbreak of Corona, she was residing at Alandi. Thereafter, she resided with in-laws at Hiwarsinga. During this period she conceived pregnancy and thereafter resided at her maternal home at village Gaodara. So far as allegations against applicant nos.4 to 6 are concerned, the omnibus statement is employed stating that all applicants were instigating husband for demand of Rs.2,00,000/- from father of respondent no.2. No specific overtact are incorporated so as to make out specific offence against them. The statement in the FIR, so far as allegations against applicants does not find support by other witnesses except vague and omnibus statement in the last paragraph. Apparently, allegations in FIR so far as applicant nos.4 to 6 are bereft to constitute offence under Section 498-A or Section 504 or 506 of the Indian Penal Code.

7. In this background, if the parameters laid down by the Supreme Court of India in case of *State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors.*² are considered, the case is made out to exercise the powers under Section 482 of the Criminal Procedure Code. Further Supreme Court of India in yet another judgment in case of *Kahkashan Kausar @ Sonam and Another vs The State Of Bihar and Others*³ observed that it would not be appropriate to permit continuation of criminal prosecution against in-laws on the basis of omnibus and vague allegations. The Courts are required to check unwarranted prosecution against large number of in-laws on the basis of such omnibus allegations. In that view of the matter, we are inclined to allow this application and proceed to pass following order:

ORDER

- a. Criminal Application is partly allowed.
- b. The FIR vide Crime No.19/2022 dated 05.02.2022 registered with Dharur Police Station, Tq. Dharur, Dist. Beed for offences punishable under Sections 498-A, 504, 506 of the Indian Penal Code and consequential criminal proceeding in RCC No.52/2022 pending before Judicial Magistrate First Class at Dharur are hereby quashed and set aside to the extent of applicant nos.4 to 6 i.e. Vaijnath S/o. Dinkar Sanap, Manisha W/o. Vaijnath Sanap and Vaishali Dinkar Sanap.
- c. Criminal Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE