



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

CRIMINAL APPLICATION NO. 1312 OF 2023

1. Varsha Arun Darekar (Sister-in-Law),
Age : 39 Years, Occ. House wife,
R/o. Chandrashekhar Society, Radheshyam
Nagar, Wakodi, Ahmednagar.
2. Jayshree Amrut Pandule (Sister-in-Law)
Age : 41 years, Occ. House wife,
R/o. Pandule Vasti, Ghumri Pimpri,
Nimgaon Gangarda, Tal. Karjat,
District Ahmednagar.

..Applicants

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
MIDC Police Station,
District Ahmednagar.
2. Sonali Sudhir Wagh,
Age : 39 Years, Occ. House wife,
R/o. C/o. Baban Vitthal Bhagat,
Shendi, Tal. Nagar,
District Ahmednagar.

.. Respondents

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Advocate for the applicants : Mr. P.P. Kothari
A.P.P. for Respondent No.1/State : Mr. G. A. Kulkarni
Advocate for Respondent No.2 : Mr. S.D. Kotkar

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

DATED : DECEMBER 03, 2024

JUDGMENT (Per Rohit W. Joshi, J.):

1. The present application is filed under Section 482

of the Code of Criminal Procedure (Hereinafter referred to as “the Cr.P.C.” for brevity) vide FIR No. 0222 of 2021 dated 08.04.2021 registered with M.I.D.C. Police Station, Ahmednagar, for the offences punishable under Sections 498-A, 323, 504 read with 34 of the Indian Penal Code (IPC) along with Charge-sheet No.349/2021 dated 02.12.2021 and Regular Criminal Case No.66/2022 pending on the file of learned Additional Chief Judicial Magistrate, Ahmednagar.

2. The applicants are arrayed as accused Nos. 3 and 4 in the matter, accused No.1 being their mother and accused No.2 being their brother. Respondent No.2 is the informant.

3. According to the FIR lodged by respondent No.2, her marriage was solemnized with Sudhir Chandrakant Wagh, accused No.2 on 24.05.2010. Respondent No.2 claims that after her marriage on 24.05.2010, she was treated well by her in-laws for period of around one year. However, thereafter her husband and mother-in-law started harassing her in relation to demand of dowry of sum of Rs.2,00,000/-, for the purpose of purchasing an agricultural land. She alleges that she was harassed physically and mentally and at a times was kept starving since the demand for dowry was not fulfilled.

4. As regards the present applicants, she states that they are married and reside separately in their respective matrimonial homes. However, they used to visit the house intermittently on festivals and other such occasions and that during their visit, they used to harass respondent No.2 by abusing her and beating her. It is also alleged that they used to constantly tell respondent No.2 that they would marry their brother elsewhere and that she should leave cohabitation with their brother. Respondent No.2 further alleges that in the month of May 2019, all the accused persons had driven her out of the residential house stating that unless she brings Rs. 2,00,000/- from her father, she will not be taken back.

5. Based on the FIR, investigation in the offence was carried out and after completion of the investigation, charge sheet has been filed on 02.12.2021 under Section 173 of the Cr.P.C. Pursuant to the charge sheet, R.C.C. No. 66 of 2022 is registered against the applicants and other two accused persons viz. their brother and mother.

6. Shri. P.P. Kothari, learned Advocate for the applicants argues that all the allegations in the FIR against the

applicants are absolutely vague and lacking in all material particulars. He would submit that the date and time so also tentative period of the alleged incidents of ill-treatment by the applicants are not stated in the F.I.R. He further states that as per the version of respondent No.2, she was expelled from house in May 2019 and the F.I.R is lodged almost after period of two years i.e. on 08.04.2021. He would further elaborate that the delay in lodging the F.I.R., coupled with lack of particulars of alleged wrong doing as also the fact that the marriage was solemnized on 24.05.2010 and allegations of dowry are made after period of around eleven years and that too with a view to implicate all the family members clearly speaks of malafide intent on the part of respondent No.2. As regards the statements of the witnesses recorded during the course of the investigation, he states that all the statements are cyclostyle statements given by the parents, brothers and brother's wife. As regards these statements also, he states that the same are absolutely vague and lack of all material particulars.

7. He, sums the submissions stating that ingredients of Section 498-A of the IPC have not been made out on the basis of contents of F.I.R. and material gathered during the

course of investigation, which forms a part of the charge sheet. He, therefore, urges that F.I.R., and criminal prosecution should be quashed in exercise of powers under Section 482 of the Cr.P.C.

8. Per contra, Shri. G.A. Kulkarni, learned A.P.P. and Shri. S.D. Kotkar, learned counsel for respondent No.2 submit that clear allegations of cruelty in relation to demand for dowry are leveled against the present applicants. The allegations in the FIR are supported by statements of witnesses recorded during the course of investigation. They further states that in a matrimonial dispute the witnesses will obviously be family members of wife and as such, at this stage at least the version of witnesses should not be discarded on the ground that they are family members of respondent No.2.

9. Having heard the learned counsels for the respective parties and on perusal of the F.I.R. and the other material in the charge sheet, we are of the opinion that the prosecution has failed to make out any case for proceeding against the applicants in the present matter. It is undisputed that both the applicants are married sisters-in-laws, who are residing at their matrimonial houses for years. The allegations

against them are absolutely vague and lacking in all material particulars. Respondent No.2 has made general and vague allegation that the applicants during the course of their visit at their paternal home used to take side with their brother and mother in order to harass respondent No.2. Leave aside, the date and time even the tentative period of alleged harassment is also not mentioned.

10. The respondent no.2 has alleged that she was finally expelled from her house in the month of May,2019 since demand of dowry of Rs.2,00,000/- or purchasing agricultural land was not fulfilled. It needs to be seen that F.I.R. is lodged after a period of around two years from the said incident. It may also be noticed that the marriage was solemnized in the year 2010, demand for dowry and harassment started in the year 2011 and the F.I.R. is lodged in 2021. As per F.I.R., respondent No.2 was residing with her in-laws for period of around nine years. She is also blessed with son from her marriage with accused No.1, brother of the present applicants.

11. The allegation of respondent No.2 is that a sum of Rs.2,00,000/- was demanded for the purpose of purchasing agricultural land. The demand of Rs.2,00,000/- for the

purpose of purchasing an agricultural land appears to be improbable. It is difficult to believe that any agricultural land would be available for purchase for an amount of Rs. 2,00,000/-. It is also improbable that, right from the year 2010 upto year 2019, sum of Rs.2,00,000/- only was demanded for purchasing agricultural land. The amount allegedly demanded is a constant figure of Rs.2,00,000/- right from the year 2010, till the year 2019 over a period of 9 years. All these aspects when considered collectively clearly indicate that the allegations are made only in order to implicate the applicants in the matter. The allegation pertaining demand of dowry and expulsion from home for not fulfilling the demand, does not inspire confidence.

12. The prosecution story does not inspire confidence. There is no credible material against the present applicants who are sisters-in-law of the respondent no.2. If the allegations against the applicants are meaningfully evaluated there is no possibility of their conviction.

13. Having regard to the totality of the circumstances as emerging from the F.I.R. and the material in the charge sheet, we find that no case is made out against the present

applicants under Section 498-A of the Indian Penal Code. The other offences are non-cognizable. In such circumstances, continuation of prosecution against the applicants would tantamount to abuse of process of law, which we are duty bound to prevent. We, therefore, deem it fit to quash criminal prosecution against the applicants. Hence, the following order:-

ORDER

- (i) The application is allowed.
- (ii) The F.I.R. No. 0222 of 2021 dated 08.04.2021 registered against the applicants with M.I.D.C. Police Station, Ahmednagar for the offences punishable under Section 498-A, 323, 504 read with Section 34 of the Indian penal Code and consequently charge sheet No. 349 of 2021 dated 02.12.2021 and Regular Criminal Case No. 66 of 2022 pending on the file of learned Additional Chief Judicial Magistrate, Court No.5, Ahmednagar is also quashed against applicant No.1 Varsha Arun Darekar and applicant No.2 Jayshree Amrut Pandule.

(ROHIT W. JOSHI)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE