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

CRIMINAL APPLICATION NO. 1166 OF 2020

1. Pankaj s/o. Poshatti Ghantalwad (brother in law)
Age 22 years, Occ. Education,
R/o. Kolgalli, Bhokar, Dist. Nanded.
2. Poshatti s/o. Gangaram Ghantalwad (father in law)
Age 57 yearse, Occ. Agri.
R/o. Kolgalli, Bhokar, Dist. Nanded.
3. Panchfula @ Phulabai
w/o. Poshatti Ghantalwad, (Mother in law)

VERSUS

1. The State of Maharashtra
through Bhokar Police Station,
Tq. Bhokar, Dist. Nanded.
2. Shivaji w/o. Pawan Ghantalwad
Age 26 Years, Occ. Private service
R/o. Kolgalli, Bhokar, Dist. Nanded.
At present Jai Bhawani Nagar, N-4,
Aurangabad.

.. RESPONDENTS.

Mr. A.D. Raut, Advocate for applicants.
Mr. V.K. Koktecha, APP for respondent No.1.
Mr. N.N. Bhagwat, Advocate for respondent No.2 (appointed).

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

DATE : 10th SEPTEMBER, 2024.

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

1. The applicants have approached this court under Section 482 of Cr.P.C. thereby praying to quash and set aside the charge sheet in Sessions Case No. 5 of 2020 pending before the Additional Sessions Judge, Bhokar, District Nanded for the offences punishable under Sections 498-A, 307, 323, 504 r/w. 34 of IPC and Section 3(1)(4) of the Dowry Prohibition Act, 1961.

2. On 17.12.2018, respondent No.2 filed report with police station Bhokar, District Nanded, alleging that on 21.7.2016, she got married with Pavan Poshatti Ghantalwad at Alandi. It was a love marriage. Her husband was pursuing his education in medical faculty (MBBS). After marriage, she resided with her husband at Aurangabad in a rented premises. After residing for six months, her husband gave a reasoning of inconvenience to attend college from his place of residence and shifted to college campus with assurance that he will make it convenient visit her every week. While she was residing alone at Aurangabad, her in-laws used to visit frequently and instigate her husband against her. Mother in law used to tease her and abuse her saying that she has fraudulently married with their son. Even they raised a demand of Rs. 10 Lakhs from her parents and in pursuance to such demand, she was beaten and abused.

3. It is further alleged that husband used to say that he has married her only because she is good looking but he wish to marry with a girl from his community. On 25.11.2019, her husband abused her and raised demand of Rs. 10 Lakhs from her parents, else, threatened of

serious consequences. They declared that he has fixed the second marriage which is scheduled on 17.12.2019 at village Umri. She told the aforesaid incident to her parents. They rushed to matrimonial home at Bhokar and asked in-laws as to why her husband is performing second marriage. Her mother in law, father in law, and brother in law were at home, whereas, her husband had been to Umri. When she asked as to why her husband is performing second marriage, her in-laws took her in a room on first floor and abused her. The brother in law and father in law caught hold of her hands and mother in law poured kerosene on her person. Her brother in law set her ablaze. She ran out of the room and somehow succeeded to extinguish the fire. She was then shifted to civil hospital at Bhokar. Accordingly, she alleges that accused persons are guilty of the offences punishable under Section 498-A, 307, 323, 504 and 506 r/w. 34 of IPC and Section 3(1)(4) of the Dowry Prohibition Act. The investigation progressed in pursuance of aforesaid report. Finally, charge sheet has been filed on 21.12.2019.

4. It appears that presently Sessions case is pending. Mr. A.D. Raut, learned advocate appearing for the applicants vehemently submits that contents of the FIR are nothing but a concocted story. Respondent No.2 had love marriage with her husband. She was residing separately from in-laws at Ahmednagar and Aurangabad. The applicants before this court were residing separately from in-laws at Bhokar Dist. Nanded. Referring to the statements of the witnesses in the charge sheet, namely, Ramdas Ganpat Pacharwar, Parvati Datta Husekar and Anita Husekar, he would submit that the incident as narrated in the FIR never occurred. Informant had simply made an attempt to enter into the house and finding that main gate is locked, returned back to her maternal home.

The entire narration regarding further episode of pouring kerosene or setting her ablaze is absolutely false. Some differences arose between the informant and her husband. Therefore, with ill-intention the complaint has been filed thereby implicating all family members of the husband. He would submit that so far as allegations regarding demand of dowry are vague and omnibus. No offence can be made out against the applicants.

5. Per contra, Mr. V.K. Kotecha, learned APP and Mr. M.N. Bhagwat, learned advocate for the respondent No.2 vehemently opposes the prayer in the application. They would submit that the contents of the FIR stipulates specific allegations as regards to ill-treatment meted to respondent No.2 at the hands of in-laws. The incident dated 16.12.2018 has been elaborately described in the FIR. The evidence in the charge sheet supports the allegations in the FIR. They would, therefore, urge that the application deserves to be dismissed.

6. We have considered the submissions advanced by learned advocates for respective parties. We have minutely perused the contents of the FIR and material in charge sheet. We find that there are specific allegations in the FIR against applicants as well as accused Pawan i.e. husband of respondent No.2. Apparently, it was love marriage of respondent No.2 with her husband and she resided with him at Ahmednagar, Aurangabad at different places. The allegations regarding demand of money and ill-treatment appears to be vague in nature. However, so far as incident dated 16.12.2018, the respondent No.2 has specifically reported about individual role of each of the applicants. There are specific allegations against all 3 applicants before us, referring

to their individual overt acts. The contents of the charge sheet shows that on 17.12.2018, M.L.C. No. 94 of 2016 was registered and respondent No.2 was referred for medical examination, which record that she has suffered burn injuries. Her clothes are also seized as per Panchanama under Section 165 of the Cr.P.C. during the course of investigation. Kerosene residues have been detected on clothes. The report of forensic laboratory is made part of the charge sheet.

7. The submissions advanced on behalf of the applicants that a concocted and false story has been put forth in the FIR cannot be appreciated at this stage in present proceeding. When *prima-facie* there are allegations making out a cognizable offence and contents of charge sheet makes out a triable case, it is not expected to exercise inherent powers under Section 482 of Cr.P.C. Although this court possesses wide powers to quash the criminal proceeding, taking into consideration the parameters laid down by the Supreme Court of India in the case of ***State of Haryana vs. Ch. Bhajanlal and others***” reported in ***AIR 1992 S.C. 604*** such powers are to be exercised sparingly only when continuation of criminal proceeding would amount to abuse of process of law. Truthfulness or falsity of the allegations in the FIR cannot be gone into in the application under Section 482 of Cr.P.C.

8. In the present case, the Sessions Court has already framed charge against the accused persons and trial is in progress. In this background, it would be apposite to refer to the law laid down by the Supreme Court of India in the matter of ***“Kaptan Singh Vs. State of Uttar Pradesh and others”*** reported in ***(2021) 9 SCC 35***, wherein, the Supreme Court observed in para. No. 9.2 that exercise of power under Section 482

is an exception and not the Rule. The appreciation of evidence is not permissible at the stage of quashing of proceedings. In light of observations and fact that trial is already in progress, we do not find it appropriate to exercise extraordinary powers.

9. In that view of the matter, we don't not find any merit in the application. The application stands rejected.

10. Mr. N.N. Bhagwat, learned advocate is appointed by this Court to represent respondent No.2, his remuneration is quantified at Rs. 7000/- to be paid through Maharashtra Legal Services Authority, Sub-Committee, Aurangabad.

[S.G. CHAPALGAONKAR, J]

[SMT. VIBHA KANKANWADI, J]

grt/-