



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1865 OF 2024

1. Akshay Arun Varhade,
Age 33 years, Occ. Job. (Husband)
2. Jayashri Arun Varhade,
age 59 years, Occ. Household (mother in law)
3. Arun Govind Varhade, (father in law)
Age 62 years, Occ. Nil.
Applicant Nos. 1 to 3 R/o.
Bedge Galli, Naldurg,
Tal. Tuljapur, Dist. Osmanabad,
At present Plot NO. 102, Harpade Building,
B Side, Amruta College, Jaibhavani Mandir,
Phursungi, Pune.
4. Archana Ramkrishna Bhange, (Sister in law),
Age 35 years, Occ. Household,
5. Ramkrishna Dnyaneshwar Bhange, (Brother in law)
Age 40 years, Occ. Business,
Applicant Nos. 4 and 5, R/o. 65 A,
Navi Peth, Near Laxmi Tokij,
Solapur North, Solapur.
6. Pooja Arun Varhade @ (Sister in law)
Pooja Ashish Godase,
Age 31 years, Occ. Household,
7. Ashish Dattatraya Godase, (brother in law)
Age 33 years, Occ. Business
Applicant Nos. 6 and 7 R/o. 158,
Raviwar Peth, Gujarwasti Shelgi Road,
New DAV College, Solapur North,
Solapur.

.. APPLICANTS.

VERSUS

1. The State of Maharashtra
through Police Inspector, Tuljapur,
Police Station, Tuljapur, Dist. Osmanabad.
2. Aishwarya Akshay Varhade,
age 25 years, Occ. Job.
R/o. Vyas Nagar Naldurg, Tal. Tuljapur,
Dist. Osmanabad at present House No.18,
HUDCO, Tuljapur, Dist. Osmanabad.

.. RESPONDENTS.

Mr. Shaikh Ashraf Patel, Advocate for applicants.
Mrs. P.R. Bharaswadkar, APP for respondent State.
Mr. V.B. Deshmukh, Advocate for respondent No.2.

**CORAM : SMT. VIBHA KANKANWADI
& S.G. CHAPALGAONKAR, JJ.
DATE : 3rd SEPTEMBER, 2024.**

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

1. The applicants have approached this court under Section 482 of the Code of Criminal Procedure with a prayer to quash and set aside the charge sheet No. 200 of 2023 dated 2.11.2023 as well as criminal proceeding in RCC No. 380 of 2023 pending before JMFC, Latur for the offences punishable under Sections 498-A, 323, 504, 506 r/w. 34 of IPC.
2. When this application was placed for consideration before this Court on 7.5.2024, it has been withdrawn so far as applicant Nos. 1 to 3. Consequently, same is dismissed to that extent.
3. Mr. Shaikh Asraf Patel, learned advocate appearing for the applicants restricted his submissions to the extent of applicant Nos. 4 to 7.

4. Respondent No.2- Aishwarya lodged report dated 21.8.2023 with Police Station, Tuljapur dist. Dharashiv alleging that on 24.12.2021 she married with Akshay Arun Varhade as per Hindu rites and customs. On 27.12.2021, she went to Pune and resided with her husband, mother in law, father in law in a flat at Harpade Building, Phursungi, Pune till 30.3.2022. During her stay at Pune she was teased and mentally tortured. Her husband and father in law were instigating aforesaid acts of the mother in law. Thereafter, a demand was made for Rs. 6 Lakhs from her parents under the pretext that business loan of Rs. 6 Lakhs taken by her husband is to be cleared. The father in law was in habit of drinking liquor and used to demand money for that purpose. It is further alleged that the sister in law Archana, her husband Vishal, who are resides at Solapur used to visit Pune and torture her in pursuance of demand of Rs. 6 Lakhs. Similarly, another sister in law – Puja and her husband Ashish Godse used to assault her for aforesaid reason. On the basis of aforesaid allegations Crime NO. 349 of 2023 came to be registered with police Station Tuljapur against in all 7 accused persons for the offences punishable under Sections 498-A, 323, 504, 506 r/w. 34 of IPC.

5. After completion of investigation, charge sheet has been filed bearing No. 200 of 2023 in the court of JMFC, Tuljapur. Accordingly, RCC No. 380 of 2023 has been registered and same is pending for trial.

6. Mr. Shaikh Arshad Patel, learned advocate appearing for the applicants vehemently submits that the applicant Nos. 4 to 7 are unconcerned with the family affairs of applicant Nos. 1 to 3. The applicant Nos. 4 and 5 are residing at Solapur. Applicant No.4 is married

sister in law of respondent No.2, whereas, applicant No.4 is husband applicant No.4. They have no occasion to interfere in the family affairs of applicant Nos. 1 to 3. Same is the case with applicant Nos. 6 and 7. Respondent NO.2 may have her grievance against her husband, however, applicant Nos. 4 to 7 have been falsely implicated in the aforesaid crime. He would, therefore, urge to quash and set aside the FIR, the charge sheet and consequential criminal proceeding against applicant Nos. 4 to 7.

7. By inviting attention of this court to the contents of charge sheet he would submit that the charge sheet is based on statements of two witnesses which are omnibus and stereo-type. He would, therefore urge to quash and set aside the FIR and consequential criminal proceeding.

8. Per contra, Mrs. P.R. Bharaswadkar, learned APP and Mr. V.B. Deshmukh, learned advocate for respondent No.2 vehemently opposes the prayers in the application. They would submit that respondent No.2 who is an educated lady, has been harassed by her in-laws since the date of marriage and driven out of home on 15.6.2015 and forced to reside at her parental home. They would urge to reject the application as there is triable material in charge sheet.

9. We have considered the submissions advanced by learned advocates for respective parties. We have perused the contents of the FIR and charge sheet. Apparently, respondent No.2 married with applicant No.1 on 24.12.2021. Thereafter, she resided at Pune alongwith her husband, mother in law and father in law. She makes allegation of harassment and ill-treatment against them till 30.3.2020. She also states that demand of rs. 6 Lakhs was raised from her parents to clear the

business loan of her husband. So far as applicant Nos. 4 to 7 are concerned, they are residing separately. The applicant Nos. 4 and 6 are married sisters in law of respondent No.2 whereas, applicant Nos. 5 and 7 are their husbands. They reside at Solapur. However, they have been implicated with allegation that they visited the matrimonial home of respondent No.2 at Pune and harassed or assaulted respondent No.2 in pursuance of demand of Rs. 6 Lakhs. Apparently, said statements are omnibus, vague and without necessary particulars to find out the complicity of applicant Nos. 4 to 7 in commission of crime.

10. If married sisters in law of respondent No.2 were residing at solapur, it would be difficult to believe that they, alongwith their husband would go to Pune and raise assault against respondent No.2, that too in pursuance of demand of money for clearing loan of husband of respondent No.2. Presently, Respondent No.2 is residing with her parents. Her matrimonial life and cohabitation with husband appears to be for a very short period. She herself is a software engineer. If there would have been ill-treatment at the hands of applicant Nos. 4 to 7, she could have easily narrated particulars of such ill-treatment, instead of making omnibus allegations regarding their participation in commission of offence.

11. At this stage, reference can be given to the observations made by the Supreme Court in the matter of ***Preeti Gupta Vs. State of Jharkhand, reported in (2010)7 SCC 667*** wherein the apex court observed thus:-

“ It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our counrty. 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.”

12. 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.

13. 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.”

14. Keeping in mind aforesaid observations, we find that this is a fit case to exercise our jurisdiction under Section 482 of Cr.PC. And quash and set aside the proceeding as against applicant Nos. 4 to 7, since the contents of FIR and charge sheet appear to be bereft to make out any offence against them. Similarly, possibility of their false implication based on such omnibus allegations is discernible from the record. We, therefore, feel it absolutely necessary to quash and set aside the FIR and criminal proceeding against applicant Nos. 4 to 7 in exercise of inherent powers to prevent the abuse of process of law and to secure the ends of justice. Hence, we pass the following order.

O R D E R

[i] Criminal application is partly allowed;

[ii] Charge sheet No. 200 of 2023 dated 2.11.2023 filed before learned JMFC, Tuljapur, Dist. Osmanabad and consequential criminal proceeding bearing RCC No. 380 of 2023 for the offence under Sections 498-A, 323, 504, 506 r/w. 34 of IPC, is hereby quashed and set aside to the extent of applicants Nos. 4 to 7.

[iii] The application stands disposed of.

[S.G. CHAPALGAONKAR, J]

[SMT. VIBHA KANKANWADI, J]