



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

CRIMINAL APPLICATION NO.2054 OF 2021

1. Sayabai Panditrao Karhale,
Age: 50 years, Occu. Household,
R/o. Nageshwar Galli, Audha Naganath,
Tq. & Dist. Hingoli. (Mother-in-law)
2. Sonalee Bharat Bolake,
Age: 33 years, Occu. Household,
R/o. Tehasil Road, Nageshwar Nagar,
Aundha Naganath, Tq. & Dist. Hingoli. (Sister-in-law)
3. Gajanan Panditrao Karhale,
Age: 30 years, Occu. Government Job,
R/o. Nageshwar Nagar, Audha Naganath,
Tq. & Dist. Hingoli. (Brother-in-law)

Versus

1. The State of Maharashtra,
Through Police Station Officer,
Police Station Hingoli (Shahar),
Dist. Hingoli.
2. Bhagyshree Dattatray Karhale,
Age: 30 years, Occu: Government Job,
Presently R/o. Devda Nagar in House of
ND Vyavhare Hingoli, Tq. & Dist. Hingoli. ..Respondents
(Respondent No.2 Org. Complainant.)

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Mr. S. S. Dargad, Advocate for the Applicants.
Mr. S. A. Gaikwad, APP for Respondent No.1.
Mr. M. L. Muthal, Advocate for Respondent No.2.

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**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.
DATED : 06th SEPTEMBER, 2024.**

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

1. The applicants have approached this Court under Section 482 of the Criminal Procedure Code with prayer to quash and set

aside FIR in Crime No.238 of 2021 registered with Hingoli (City) Police Station, for offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code. During the pendency of present application, Investigating Officer filed charge-sheet before the learned Judicial Magistrate First Class at Hingoli, it has been culminated into R.C.C. No.355/2021. The applicants have, therefore, added prayer to quash and set aside charge-sheet as well as criminal proceeding in R.C.C. No.355/2021.

2. The respondent no.2 herein filed FIR dated 09.08.2021 alleging that on 30.06.2017 she has been married with Dattatray Panditrao Karhale-accused no.1. Her father had gifted precious articles worth Rs.15,00,000/- in the marriage. After marriage, respondent no.2 resided at Aundha alongwith her husband, mother-in-law (applicant no.1), sister-in-law (applicant no.2) and brother-in-law (applicant no.3). She was serving with Agriculture University as Senior Clerk and was posted at Akola, whereas her husband was Medical Officer and was posted at Shiradshahpur. During first year of marriage, she used to attend her duties from Aundha. Thereafter, she got posting at University Centre Washim. Her husband had also secured posting at Health Centre, Lakh. Thereafter, since October 2018 they arranged rented house at Devda Nagar and resided together. Thereafter mother-in-law, sister-in-law and brother-in-law instigated her husband to raise demand of Rs.10,00,000/- under the pretext of construction of house and dispensary. Eventually, husband tortured her and lastly left home in October 2020 leaving her alone and started to reside at Aundha. Despite intervention from relatives, no conciliation could be arrived. Thereafter, she filed application to Women's Vigilance Cell at Hingoli in February 2021 and lastly on 25.06.2021 lodged

report to police. Consequently, aforesaid crime has been registered.

3. The investigation progressed, finally charge-sheet in R.C.C. No.355/2021 has been filed against in all four accused persons. Except husband, other three accused persons are before this Court in this application with aforesaid prayers.

4. Mr. Dargad, learned Advocate appearing for the applicants vehemently submits that applicants have been falsely implicated in aforesaid crime. The respondent no.2 and her husband are well educated persons and they are Government servants. They were residing separately from other family members in pursuance of their posting. The respondent no.2 never resided in the joint family as alleged. There were disputes between respondent no.2 and her husband. However, applicants have been falsely implicated on the basis of vague and omnibus allegations. He would further submit that entire charge-sheet is based on stereotype statements of family members of respondent no.2. No case can be made out against the applicants for prosecution for alleged offences. In support of his contentions, he relies upon following judgments:

1. *State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors.*¹
2. *Preeti Gupta and Another Vs. State of Jharkhand and Another*².
3. *Neelu Chopra and Another Vs. Bharati*³.
4. *Geeta Mehrotra and Others Vs. State of Uttar Pradesh*⁴.
5. *Shakson Belthissor Vs. State of Kerala*⁵.

1 AIR 1992 SC 604.

2 AIR 2010 SC 3363.

3 (2009) 10 SCC 184.

4 2012 (10) SCC 741.

5 2010 AIR SCW 2494.

5. Per contra, Mr. Gaikwad, learned APP appearing for the State and Mr. Muthal, learned Advocate appearing for respondent no.2 vehemently opposes the application and justify registration of FIR and consequential criminal proceeding.

6. We have considered submissions advanced by learned Advocates appearing for respective parties. Apparently, allegations in the FIR makes an attempt to bring home guilt against applicants for offence punishable under Section 498-A of the Indian Penal Code. The Supreme Court of India in case of ***Preeti Gupta and Another*** (supra) observed in paragraph nos.30 and 32 as under:

“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.”

7. Keeping in mind aforesaid observations of Supreme Court, we have scrutinized contents of FIR and charge-sheet in depth. Apparently, first part of the FIR clearly demonstrates that respondent no.2-informant was in service at Washim under the establishment of Agriculture University, whereas her husband was Medical Officer. Both of them were residing away from other family members. Although respondent no.2 sought to contend that after marriage she was attending her duties from Aundha for the period of one year, she has not made any allegations as regards to the cruelty or mental harassment during the first year of marriage. Admittedly, she started residing alongwith her husband at Devda

Nagar since October 2018 in rented premises whereas applicants were residing at Aundha. The allegations of demand and cruelty is sought to be made out after October 2018 till October 2020, when her husband left her company. The allegations against the applicants are limited to the extent that they instigated her husband to raise demand of Rs.10,00,000/-. No particulars of individual act of instigation are given in FIR. The allegations are omnibus against all in-laws. Perusal of charge-sheet would depict that it contains stereotype statements of mother and sister of respondent no.2. No specification as to the harassment or instances of instigation at the hands of applicants are discernible from the entire charge-sheet. Apparently, this is a case of usual differences between husband and wife. There is every reason to believe that applicants have been implicated with intention to bring pressure on husband.

8. At this stage reference can be given to guidelines laid down by the Supreme Court in case of ***State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors.*** (supra). The First Information Report or contents of the charge-sheet at their face value are not sufficient to make *prima facie* case to constitute any offence against the applicants. The criminal proceeding is manifestly used with malafide intention and with ulterior motive for wreaking vengeance on the accused persons. In such case, there is no reason to permit continuation of criminal prosecution against the applicants. Consequently, we deem it appropriate to exercise our inherent powers under Section 482 of the Criminal Procedure Code and quash and set aside pending proceeding. Hence, following order:

ORDER

a. Criminal Application is partly allowed.

b. The FIR in Crime No.238 of 2021 registered with Hingoli (City) Police Station, Hingoli as well as proceeding in R.C.C. No.355/2021 pending before learned Judicial Magistrate First Class at Hingoli are hereby quashed and set aside to the extent of applicants.

c. Criminal Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE