



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1394 OF 2024

1. Shaikh Pirasab Shaikh Nanhesab
Age: 51 Years, Occ: Service,
R/o.: House No.231, Block No.11,
Labour Colony, Near Noble School,
Nanded Tq &, Dist-Nanded.
 2. Sameena Kausar Shaikh Ahmed
Age- 38 Years, Occ- Household,
R/o C/o Shaikh Ahmed Nawa Mondha Road,
Itlapur Mohalla, Parbhani, Tq- & Dist- Parbhani.
 3. Shabana Kausar D/o Shaikh Nanhesab
@ Sabera Begum Karim Shah
Age-40 Years, Occ- Household,
R/o Govind Nagar, Nanded,
Tq-& Dist-Nanded.
- ...Petitioners

VERSUS

1. The State of Maharashtra.
Through Shivaji Nagar Police Station,
Nanded Tq- and Dist: Nanded.
 2. Nahed Khanum W/o Shaikh Pirasab
Age: 35 years. Occ: Household,
R/o. Labour Colony, Nanded Tq- & Dist Nanded.
Mob No. 7798127002
- .. Respondents

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Mr. G. R. Syed, Advocate for the Petitioners.
Smt. R. P. Gour, APP for Respondent-State.

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

DATED : 16th DECEMBER, 2024

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

1. The present Petition is filed under Articles 226 and 227 of

the Constitution of India *inter alia* praying for quashing of FIR No.0285/2019 dated 06/08/2019 registered against the petitioners on information provided by respondent No.2 for the offences punishable under Sections 498-A and 504 read with Section 34 of the Indian Penal Code, 1860 (for short "*IPC*"). The Petitioners also pray that Regular Criminal Case No.379 of 2019 registered pursuant to the said FIR which is presently pending on the file of the learned Judicial Magistrate First Class at Nanded may also be quashed.

2. Petitioner No.1 is husband and Petitioner Nos.2 and 3 are sisters of the Petitioner No.1 and as such related to Respondent No.2 as sisters-in-law. Both Petitioner Nos.2 and 3 are married and were not residing with the Petitioner No.1 and Respondent No.2. The Petitioner No.1 and Respondent No.2 are blessed with three children from their wedlock.

3. The respondent No. 2 is the informant. He has alleged report against the applicant and two other family members of the applicant No. 1 regarding harassment amounting to cruelty in relation to demand for dowry and on other counts. The sum and substance of allegations against the petitioner No. 1 – Husband is that he had made a demand to the respondent No. 2 to get a motorcycle for him from his parents. It is further alleged that he used to ill-treat her and often keep her starving without food in order to force her parents to meet

the said demand. It is also alleged that he used to frequently threaten that he would desert the respondent No. 2 to marry another lady. The allegations against the petitioner Nos. 2 and 3 are that they used to instigate the petitioner No. 1 to ill-treat and harass the respondent No. 2. There is no specific allegation that the petitioner Nos. 2 and 3 used to instigate the petitioner No. 1 to make any demand for dowry.

4. Based on such allegations, the FIR is registered. Respondent No.1 has completed investigation in the matter and has filed charge sheet under Section 173 of the Code of Criminal Procedure, 1973, vide Final Report No.112/2019 dated 3.10.2019, pursuant to which Regular Criminal Case No.379 of 2019 is registered against the Petitioners. The prosecution has recorded statements of father, brothers, mother and a distinct relative of Respondent No.2.

5. We have heard learned counsel Mr. G. R. Syed for the petitioner and Smt. R. P. Gour learned APP for respondent No. 1. The respondent No. 2 though served has chosen not to appear. We have perused the record with the able assistance of the learned advocates.

6. Perusal of the First Information Report will demonstrate that the allegations of demand for dowry against Petitioner No.1 are vague. Respondent No.2 has not mentioned the date and time or even the

tentative period with respect to the said demand. Apart from demand for a Motorcycle, there is no other allegation. We may state that according to the FIR, a Motorcycle was presented by Father of Respondent No.2 to Petitioner No.1, at the time of the marriage.

7. As regards Petitioner Nos.2 and 3, although, it is stated that they used to instigate Petitioner No.1 to ill treat Respondent No.2, there is no specific allegation that they used to instigate him to demand dowry. The allegations pertaining to instigation are also vague. Respondent No.2 is absolutely silent as regards the particulars, such as time, period, manner etc. of the alleged instigation.

8. We may note that the marriage between Petitioner No.1 and Respondent No.2 was solemnized in the year 2006. The First Information Report is lodged on 06.08.2019, tentatively after a period of 13 years. The couple is blessed with three children. The fact that the allegations of alleged demand for dowry are indefinite, vague and lacking in particulars as to be seen in this peculiar backdrop of facts. The statements of relatives recorded by the investigation agency are also identically worded. These statements also do not provide any details as regards the particulars of the alleged demand of dowry by Petitioner No.1. Likewise, the said statements are also silent with respect to the material particulars of alleged instigation by Petitioner

Nos.2 and 3.

9. In our considered opinion, the contents of FIR taken on their face value coupled with the statements of witnesses are grossly inadequate to make out any case against Petitioner No.1 under Section 498-A of IPC. Although, it is a settled legal principle that veracity of allegations in the FIR cannot be looked into while dealing with a Petition for quashing FIR and the same are required to be taken on their face value, it is equally well settled that allegations relating demand for dowry should not be vague and unspecific. The allegations must be clear, definite and precise. The FIR must contain all material particulars, such as tentative period, place and manner of harassment amounting the cruelty. All these aspects are clearly lacking in the case at hand. We may also record that the allegation about demand for dowry has made after a period of 13 years of marriage life. The fact that names of married daughters-in-law, brother-in-law and mother-in-law are also involved along with estranged husband, speaks volume about the intention of Respondent No.2. We find that the allegations in the FIR and the statements by witnesses even if assumed to be true and correct will not be sufficient to bring home conviction of the Petitioners for the offence alleged. The prosecution case stands on a very weak footing.

10. Therefore, we are of the considered opinion that continuation of prosecution in the present case will amount to abuse of process of law and would result in a meaningless exercise which would only the harassment for the Petitioners, and as such we are of the considered opinion that the FIR and Regular Criminal Case registered against the Applicants need to be quashed. Hence, we pass the following order:-

ORDER

- (I) The Writ Petition is allowed.
- (II) The FIR No.0285/2019 dated 06/08/2019 registered with Police Station Shivaji Nagar, District, Nanded for the offences punishable under Sections 498-A and 504 read with Section 34 of the Indian Penal Code and Regular Criminal Case No.379/2019 pending on the file of the Learned Judicial Magistrate, First Class, Nanded are hereby quashed against Petitioner No.1-Shaikh, Pirasab Shaikh Nanhesab, Petitioner No.2- Sameena Kausar Shaikh Ahmed and Petitioner No.3-Shabana Kausar D/o Shaikh Nanhesab @ Sabera Begum Karim Shah.

(ROHIT .W. JOSHI)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

A.G.Narwade