



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2984 OF 2022

1. Anup s/o Nagnath Ganechari,
age 29 yrs, Occ. Nil,
R/o B-101, Golden Gate Apartment,
Murarji Peth, Solapur,
Tq. & Dist. Solapur.
2. Rajshree w/o Rajshekhar Ganechari,
age 58 yrs, Occ. Housewife,
R/o. B-601, Golden Gate Apartment,
Murarji Peth, Solapur,
Tq & Dist. Solapur.
3. Vishwanath s/o Basavraj Ganechari,
age 56 years, Occ. Business,
R/o. B-401, Golden Gate Apartment,
Murarji Peth, Solapur,
Tq. & Dist. Solapur.
4. Akshata d/o Umesh Doijad,
age 29 years, Occ. Service,
R/o. Plot no.22, Om Park,
Near Shivneri Nagar, Pachgaon,
RK Nagar, Karvir, District Kolhapur.
5. Rushikesh S/o Someshwar Swami,
age 32 years, Occ. Service,
R/o Suyash Garden, Flat No.B-13,
Tandulwadi Road, Satav Nagar,
Baramati, Tq. Baramati, Dist. Pune.
6. Sanskriti w/o. Sanjay Hiremath,
age 59 years, Occ. Business,
R/o. Near N.C.L.C.-2/31, State Bank Nagar,
Panchawati Pashan, Pune.

..Applicants..

Versus

1] The State of Maharashtra,
through Police Inspector,
Pundlik Nagar Police Station,
Tq. & Dist. Aurangabad.

2] Sow. Anuja w/o Ajinkya Ganechari,
age 33 years, Occ. Service,
R/o Plot No.16, Alka Nagari,
Cidco, N-9, Aurangabad.

.. Respondents..
(Resp no.2 is orig.complainant)

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Mr. V. V. Deshmukh, Advocate for applicants.
Mr. A.V. Lavte, APP for respondent No.1- State.
Mr. D. R Kale, Advocate for respondent No.2.

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

DATE : 23rd SEPTEMBER, 2024.

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ORDER (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 bearing No.74 of 2022 filed in the Court of J.M.F.C., Aurangabad as well as FIR in crime No.320 of 2021 dated 14.8.2021 registered with Pundlik Nagar Police Station, Aurangabad for the offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of the IPC.

2. Respondent No.2 lodged a report dated 14.08.2021 with police station Pundlik Nagar, alleging that on 6.6.2017 she married with Ajinkya Nagnath Ganechari R/o Murarji Peth, Solapur as per Hindu Rites and Customs. Her father gifted gold ornaments, household articles and spend about Rs. 12,26,000/- at the marriage. After marriage, she went

to matrimonial home at Solapur. On 11.6.2017 while she was to visit her maternal home at Aurangabad, her mother-in-law took away golden ornaments. She alleges that her husband had raised demand of four wheeler at the time of marriage and also amount of Rs.1.00 Lakh for Tour after marriage. However, his demands were declined. Therefore, he was teasing her. In September, 2017 her husband left alone to Pune in pursuance of his job. When she persuaded to take her to Pune, he raised demand of Rs.20 Lakhs to purchase a flat. Her husband and mother-in-law insulted her. On 1.10.2017 she returned back to her maternal home. However, her in-laws never attempted to take her back. Although her father had suffered heart attack, her husband or in-laws did not visit to see him. She further alleges that her cousin father-in-law Vishvanath asked her to reimburse Rs.10 Lakh that was spend by him for education of the husband. She further alleges that on 4.6.2018 when her parents visited Solapur, her mother-in-law Uma, her cousin-mother-in-law Rajashri Ganechari, father-in-law Nagnath insulted her parents. Similarly, paternal aunt of husband namely Sanskruti Hiremath also threatened her. She further alleges that son of maternal aunt of her husband namely Rushikesh Swami R/o Baramati also threatened her. On the basis of aforesaid allegations, crime no.320 of 2021 came to be registered against in all 9 accused persons including present applicants. On completion of investigation, charge-sheet no.74 of 2022 has been filed in the Court of J.M.F.C, Aurangabad.

3. Mr. V. V. Deshmukh, learned advocate appearing for the applicants submits that applicant no.1 is brother-in-law of respondent no.2. Rest of the applicants are distant relatives and not the family members of respondent no.2. FIR is lodged as a counter blast against divorce petition filed by accused no.1 Ajinkya against respondent no.2.

Allegations in the FIR are palpably false. From contents of the FIR and charge-sheet, no offence can be made out against the applicants. Allegations are omnibus, unspecific and made with obvious reasons. Criminal proceeding is manifestly attended with malafide and ulterior motive for wreaking vengeance against the applicants only because respondent no.2 has grudge against her husband. No specific role is attribute against any of the applicants. He would therefore urge to quash and set aside the FIR and criminal proceeding against the applicants.

4. Per contra, Mr. A.V. Lavte, learned APP appearing for respondent no.1-State and Mr. D.R.Kale, learned advocate for respondent no.2 vehemently opposed the application contending that First Information Report specified role of each applicant. Respondent no.2 is ill-treated by all in-laws in pursuance to demand of money and lastly she has been driven out of the home. According to them, contents of the charge-sheet would make out sufficient case for trial against all the applicants.

5. We have considered submissions advanced by learned advocates appearing for the respective parties. We have minutely perused the FIR and statement of the witnesses recorded during course of the investigation. The applicants before this Court are accused nos. 3, 4, 5, 6, 7 and 8. On 6.6.2017 respondent no.2 married with Ajinkya Ganachari, R/o Solapur. Respondent no.2 alleges that, after marriage, her husband raised demand of money for purchase of four wheeler and expenses for tour after marriage. Since his demands were not fulfilled, he started harassment and ill-treatment to respondent no.2. Thereafter, he resided at Pune in pursuance of his job. During that period she stayed at Solapur alongwith in-laws. It is alleged that her husband raised

demand of Rs.20 Lakh for purchase of flat at Pune.

6. So far as allegations against applicants are concerned, it can be observed that omnibus, vague statements of imputations are made in FIR. It is stated that accused Akshata Doijad misinformed to husband against respondent no.2. The applicant Vishvanath Ganechari alleged to have asked to pay Rs.10 Lakh as gift for Sanskruti. The accused Rajeshree alleged to have insulted her. Accused Sanskruti Hiremath alleged to have supported demand of Ajinkya for purchase of the flat. Similarly, accused Rushikesh is also alleged to have insulted her. No specific allegations are made against other applicants/accused.

7. It appears that on 13.1.2020 respondent no.2 had made complaint to police inspector, Women's Grievance Redressal, Desk, wherein no allegations are made as against the applicants. Even, taking allegations in the FIR at the face value, we do not find that ingredients of section 498-A can be attracted against the applicants/accused.

8. At this stage, reference can be given to the observations made by the Supreme Court in case of ***Preeti Gupta and another Vs. State of Jharkhand and another, reported in (2010)7 SCC 667*** wherein the apex court observed in para. 30, 32 and 34 as under :-

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

9. In yet another matter of ***Kahkashan Kausar alias Sonam and others Vs. State of Bihar reported in (2022)6 SCC 599***, the Supreme Court after taking stock of various earlier decisions in the subject matter, observed in paragraph no.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 analyzing 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”.

10. Similarly, in the case of ***Sushil Kumar 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 ignomy 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 per-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."

11. In light of the aforesaid observations of the Supreme Court of India, we have considered material in the charge-sheet and find that there are no specific allegations as against the applicants; particularly, to make out offence under section 498-A of the IPC. FIR do not stipulate that dowry was fixed at the time of marriage. There is no statement in

the FIR as regards to demand of dowry or balance of dowry. FIR mainly alleges against husband that he raised demand of money firstly for purchase of car, secondly for the Tour and thirdly for purchase of flat. The applicants before this Court are unconcern with all such allegations. Omnibus statement made that applicants/accused supported such demand of husband but that would not be sufficient to make out offence contemplated under section 498-A of the IPC. Admittedly, applicant nos.2 to 6 are not family members, but distant relatives of husband of respondent no.2. Allegations regarding their involvement in pushing demand of money by husband cannot be countenanced. In that view of the matter, we are of the considered opinion that contents of the FIR or charge-sheet are bereft to make out any offence as against the applicants. Continuation of criminal proceeding against them would amount to abuse of process of law. Consequently, we deem it necessary to exercise our powers under section 482 of the Criminal Procedure code and quash FIR as well as consequential proceeding as against the applicants. Hence, we proceed to pass the following order.

ORDER

- [i] Criminal application is **allowed**.
- [ii] The First Information Report in Crime No.320 of 2021 dated 14.8.2021 registered with Pundlik Nagar Police Station, Tq & Dist. Aurangabad for the offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of the IPC and consequential proceeding in RCC No.1449 of 2022 pending in the Court of Judicial Magistrate First Class, Aurangabad pursuant to charge sheet no.74 of 2022 is hereby quashed and set aside to the extent of applicants

herein.

[iii] Criminal application stands **disposed of** accordingly.

[S.G. CHAPALGAONKAR, J.]

[SMT. VIBHA KANKANWADI, J.]

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aaa/-(f).