



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.3216 OF 2023**

1. Nilkanth Deorao Ingale
Age: 61 yrs, Occu: Nil
2. Mayabai Nilkanth Ingale
Age: 55 yrs, Occu: Household
3. Ashish Nilkanth Ingale
Age: 30 yrs, Occu: Private Service

All R/O. House no.16, Shivaleak
Kalinda Mid Town
Indore (State of M.P.)

4. Manisha Ashitosh Kamble
Age: 31 yrs, Occu: Household
R/O. Mahu Dist. Indore (State of M.P.)
5. Vinod Deorao Ingale
Age: 52 yrs, Occu: Private Service
6. Ankit Vinod Ingale
Age: 24 yrs, Occu: Education

Petitioner no.5 & 6
R/O. House no.42, Chaudhari Park
Colony, Musakhedi
Indore Dist. Indore (State of M.P.)

..Applicants

Versus

1. The State of Maharashtra
Through Police Station Officer,
Bodwad Police Station,
Tq. & District: Jalgaon.
2. Priyanka Manishkumar Ingale
Age: 29 years Occu: Service,
R/o. Renuka Nagar, Bodwad
Tq. Bodwad Dist. Jalgaon

..Respondents
(No.2 Orig. Complainant)

...

Mr. Azizoddin R. Syed, Advocate for the Applicants.

Mr. A. M. Phule, APP for Respondent-State.

Mr. Ashok Mundhe, Advocate for Respondent No.2 (Appointed).

...
CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.
DATED : 10th OCTOBER, 2024.

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

1. The applicants have approached this Court under Section 482 of the Criminal Procedure Code thereby praying to quash and set aside FIR in Crime No.30/2022 dated 14.03.2022 registered with Bodwad Police Station, Dist. Jalgaon for offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code as well as consequential criminal proceeding in R.C.C. No.4/2023 pending before learned Judicial Magistrate First Class, Bodwad.

2. The respondent no.2 lodged report alleging that on 15.12.2019 she has been married with Manishkumar Nilkanth Ingale as per Buddhist rites and customs. She started residing at her matrimonial home at Indore. Her husband owns infra project company. During her stay at matrimonial home, in-laws were teasing her that marriage was not performed as per their standards. They were instigating her husband to beat her. At the same time, her husband was demanding Rs.5,00,000/- for investment in business. Due to continuous ill-treatment, she was physically and mentally tortured. On 18.01.2020, her parents had been to Indore. She disclosed about demand raised by husband and mental torture suffered by her. However, they advised her to bear it for some time. On 13.02.2020, when her husband had been to Bodwad, her parents consoled her husband and asked not to torture her and also shown their inability to pay the amount. Her husband assured that he will treat her well. Therefore, she went with him back to Indore. On 28.02.2020, her brother and sister had been to Indore on occasion of her birthday, but her in-laws did

not allow celebration. On 29.02.2020, her in-laws beaten her and drove her out of home. On 21.06.2020, mother-in-law and father-in-law again came at her maternal home and gave false assurance to her parents and took her back to Indore. However, on her returned back to Indore, ill-treatment continued towards her. On 22.07.2020, again she was sent back to maternal home. On 16.08.2020, the accused persons came to Bodwad and gave threat to her parents and asked for divorce. It is accordingly alleged that all the accused persons have mentally and physically tortured her in pursuance of demand of Rs.5,00,000/-. As such, all of them are liable to be prosecuted for aforesaid offences.

3. On the basis of aforesaid information, Crime No.30/2022 has been registered against in all seven accused persons including applicants. On completion of investigation, charge-sheet has been filed.

4. Mr. Syed, learned Advocate appearing for the applicants submits that applicants have been falsely implicated in aforesaid crime. The marriage of respondent no.2 was solemnized on 15.12.2019. However, she hardly stayed at matrimonial home. She had some differences with her husband. However, all the family members are implicated in aforesaid crime with a view to harass them. He would submit that allegations in the FIR are imaginary. The family of the applicants is financially well settled. There is no reason to raise demand of Rs.5,00,000/- as alleged. The applicant nos.1 and 2 are mother-in-law and father-in-law of respondent no.2. They made every attempt to bring respondent no.2 to the matrimonial home. Applicant nos.4 to 6 are unconcerned with family affairs and reside at independent houses.

He would, therefore, urge to quash and set aside FIR and consequential criminal proceeding.

5. Per contr, Mr. Phule, learned APP appearing for respondent-State and Mr. Mundhe, learned Advocate appointed to represent respondent no.2 vehemently opposed the application contending that stipulations in the FIR alongwith statements of witnesses recorded during course of investigation makes out triable case against applicants.

6. We have considered submissions advanced on behalf of learned Advocates appearing for the respective parties. We have minutely considered allegations in the FIR and statements of witnesses recorded during course of investigation. It can be observed that marriage of respondent no.2 solemnized with son of applicant nos.1 and 2 in December 2019. On 18.01.2020, her parents took her back to Bodwad. Thereafter, on 13.02.2020, her husband took her back to Indore. Again on 29.02.2020, she came back to Bodwad. Again on 21.06.2020, applicant nos.1 and 2 took her back to Indore. Thereafter, on 22.07.2020 she again went back to maternal home. Since then, she is residing with her parents at maternal home. The aforesaid sequence of events would show that respondent no.2 hardly resided at her matrimonial home. She alleges that she was ill-treated in pursuance of demand of Rs.5,00,000/- by her husband and in-laws were instigating him to make such demand. Except this vague allegation, there are no stipulations as regards to the demand of amount and role of applicants. The husband of respondent no.2 appears to have his own business. The respondent no.2 has not given particulars of demand or reason of such demand. Overall survey of stipulations in the FIR would depict that during the span of about eight months

from the date of marriage, respondent no.2 mostly resided at her maternal home and every time in-laws took her back to Indore. In this background, it is difficult to believe that respondent no.2 was subjected to ill-treatment pursuant to demand. Even, there are no particulars of nature of ill-treatment, except vague statement that she was assaulted or insulted by her husband. Except husband, all other accused persons are before this Court. On minute reading of FIR, there is nothing to carve out individual role of any of the applicant in commission of offence. The statements in the FIR are omnibus. Apart from the family members of respondent no.2, other relatives residing in the Indore are also made accused without attribution of overtact against them. In that view of the matter, we have reason to believe that it is a case of over implication.

7. At this stage, reference can be given to the observations made by the Supreme Court in case of ***Preeti Gupta and Another and Another Vs. State of Jharkhand and Another***¹, wherein the Apex Court observed in paragraph nos.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.

¹ (2010) 7 SCC 667.

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.”

8. In yet another judgment in case of ***Kahkashan Kausar @ Sonam and Others Vs. State of Bihar and Others***², the Supreme Court after taking stock of various earlier decisions in the subject matter, observed in paragraph no.17 as under:

“17. 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.”

9. Similarly, in the case of ***Sushil Kumar Sharma vs. Union of India and others***³, the Supreme Court observed in paragraph no.19 as under :-

“19. The object of the provision is prevention of the dowry meance. 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

² (2022) 6 SCC 599.

³ (2005) 6 SCC 281.

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 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."

10. In light of the aforesaid observations, we gave thoughtful consideration to the material in the charge-sheet i.e. statements under Section 161 of the Criminal Procedure Code of parents, brother and sister of respondent no.2. Apparently, all those statements depict stereotype version of allegations. Even, the statements of neighbours namely Ramrao More and Chandrakal Bavaskar also records stereotyped omnibus version. Therefore, evidence in the charge-sheet is bereft to make out any offences against the applicants, particularly when general allegations are made without particulars of overtact against any of the applicant. In that view of the matter, we are of the considered view that this

is case of over implication and interest of justice requires invocation of powers of this Court under Section 482 of the Criminal Procedure Code, so as to prevent abuse of process of law. Hence, we proceed to pass following order:

ORDER

- a. Criminal Application is allowed.
- b. The FIR in Crime No.30/2022 dated 14.03.2022 registered with Bodwad Police Station, Dist. Jalgaon for offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code as well as consequential criminal proceeding in R.C.C. No.4/2023 pending before learned Judicial Magistrate First Class, Bodwad, is hereby quashed and set aside.
- c. Criminal Application is disposed of.
- d. Since Mr. Ashok Mundhe, learned Advocate is appointed through legal aid to represent respondent no.2, the Secretary, High Court Legal Services Sub-Committee, Aurangabad Bench do pay the fees of the appointed counsel for respondent no.2 as per schedule.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE