



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3408 OF 2023

- 1] Dhananjay s/o Sudam Sase,
age 31 years, Occ. Agri,
R/o Sasewadi, Tq. & Dist Ahmednagar.
- 2] Ranjana w/o Sudam Sase,
age 56 years, Occ. Agri,
R/o Sasewadi, Tq. & Dist. Ahmednagar.
- 3] Komal w/o Sagar Kadam,
age 33 years, Occ. Household.
R/o Manjarsumvba, Tq. & Dist. Ahmednagar.
- 4] Sampada w/o Devidas Diwate,
age 37 years, Occ. Service,
R/o Newasafata, Tq. Newasa,
Dist. Ahmednagar.
- 5] Devidas s/o Abasaheb Diwate,
age 39 years, Occ. Service,
R/o Newasafata, Tq. Newasa,
Dist Ahmednagar.
- 6] Machindra s/o Tukaram Magar,
age 54 years, Occ. Agri,
R/o Jeur, Tq. & Dist. Ahmednagar.
- 7] Narendra s/o Mohan Karale,
age 57 years, Occ. Agri,
R/o Kamat Shingave,
Tq. Paithan, Dist. Ahmednagar.

..APPLICANTS..
(orig accused)

VERSUS

- 1] The State of Maharashtra
through In-charge Investigating Officer,
Rahuri Police Station, Tq. Rahuri,
Dist Ahmednagar.

- 2] Sau. Mayuri w/o Dhananjay Sase,
age 23 years, Occ. Agri,
R/o C/o. Shri Vijay Kadam,
Address at – Kadam Vasti,
Mokaloval, Post Umbare,
Tq. Rahuri, Dist. Ahmednagar. .. RESPONDENTS.
(Resp no.2 is org. complainant)

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Mr. S.R. Andhale, Advocate for applicants.
Mrs. P.R. Bharaswadkar, APP for respondent State.
Mr. S.D. Kotkar, Advocate for respondent No.2.
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**CORAM : SMT. VIBHA KANKANWADI &
S.G. CHAPALGAONKAR, JJ.**

DATE : 26th SEPTEMBER, 2024.

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 FIR in crime No.480 of 2022, dated 9.6.2022, registered with Rahuri Police Station, District Ahmednagar for the offences punishable under Sections 498-A, 323, 504, 506 r/w. 34 of the IPC as well as consequential proceeding in RCC No.330 of 2022 pending before the J.M.F.C., Rahuri.

2. Respondent No.2 herein lodged a report dated 9.6.2022 with police station Rahuri, District Ahmednagar alleging that, on 10.3.2021 she married with Dhananjay s/o Sudam Sase as per Hindu Rites and Customs. After marriage, she resided at Matrimonial Home alongwith her mother-in-law, husband and others. Initially, for eight days, she was treated well. However, soon they started ill-treating her. She came to know that her husband was not in employment and she has been

deceived. She informed aforesaid fact to her parents. Thereafter, her in-laws intensified ill-treatment and raised demand of Rs.5.00 Lakh under the pretext of establishment of electric shop for her husband. Later on she came to know that her husband is sexually unfit. When she asked him to go for medical treatment, he started ill-treating her and used to tease her on various reasons. When her parents shown inability to give the amount as demanded by in-laws, they abused, manhandled her and driven out of home. On the basis of aforesaid report, crime no.480 of 2022 has been registered with Rahuri Police Station, District Ahmednagar.

3. Investigation progressed and finally charge-sheet has been filed in RCC No.330 of 2022 in the Court of JMFC, at Rahuri against in all seven accused persons. Presently Trial is pending.

4. Mr. S.R. Andhale, learned advocate appearing for the applicants, on instructions, sought permission to withdraw the application to the extent of applicants no.1 and 2 i.e. Dhananjay Sudam Sase and Ranjana w/o Sudam Sase i.e. husband and mother-in-law and advanced submissions to the extent of applicant nos.3 to 7.

5. Mr. Andhale, would submit that, applicants have been falsely implicated in the aforesaid crime. Applicant no.3 is sister-in-law of the informant, who resides at Manjarsumba. Applicant no.4 is also sister-in-law of the informant and resides at Newasafata, District Ahmednagar. The applicant no.5 is husband of applicant no.4, who resides at Newasafata. Respondent nos.6 and 7 are maternal uncles of applicant no.1. They are unconcerned with the family of applicant no.1. They are residing at Jeur and Kamat Shingave, District Ahmednagar. By inviting

attention of this Court to the stipulations in the FIR, he would submit that, except omnibus reference of their names, there is nothing to make out any offence against the applicants. Mr. Andhale would further take us through statement of witnesses recorded during course of the investigation to contend that no offence can be made out against the applicants and dragging them to the trial would be abuse of process of law.

6. Per contra, Mrs. P.R. Bharaswadkar, learned APP appearing for respondent no.1-State and Mr. S.D. Kotkar, learned advocate for respondent no.2 vehemently opposed the application contending that First Information Report alongwith the investigation material which is made part of the charge-sheet is sufficient to make out triable case against all the applicants.

7. We have considered the submissions advanced by learned advocates appearing for respective parties. We have perused the material in the charge-sheet in light of the stipulations in the FIR. Careful reading of FIR would depict that the respondent no.2 resided at matrimonial home during the period from 10.3.2021 till 14.5.2021. She alleges that all the accused persons have ill-treated her. Her husband was not employed. She felt deceived. She alleges that lateron demand of Rs.5.00 Lakh was made and in pursuance of such demand, she was again ill-treated. Grievance of respondent no.2 is clearly against her husband and at the most mother-in-law i.e. applicant nos.1 and 2. No specific averments can be seen in the FIR that would depict involvement of the applicants in commission of the offence.

8. At this stage, reference can be made 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 it is 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.

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 and nature of allegations in the FIR, we find that the applicant nos.3 to 7 are unnecessarily implicated in the aforesaid crime in absence of any material to demonstrate that they have involvement in the family affairs of respondent no.2. As rightly pointed out by Mr. Andhale, the applicant nos.2 and 3 are married sisters of the applicant no.1 and they are residing at their matrimonial home in different Talukas within Ahmednagar District. The applicant nos. 6 and 7 are maternal uncles of applicant no.1. Even, they are not the family members of applicants or respondent no.2. From the statements of witnesses recorded during the course of the investigation, nothing can be gathered to believe that the applicant nos. 3 to 7 ever resided at the matrimonial home of respondent no.2. Statements in the charge-sheet are stereo type, omnibus and leads to nothing except the inference that implication of the applicant nos. 3 to 7 is for obvious reasons to pressuarise the applicant no.1. In light of the aforesaid observations, we are of the considered view that this is a fit case to exercise powers under section 482 of the Cr.P.C. and prevent abuse of process of law. Hence, we pass the following order.

ORDER

- [i] Criminal application is **partly allowed**.
- [ii] The First Information Report in Crime No. 480 of 2022 dated 9.6.2022, registered with Rahuri Police Station, District Ahmednagar for offence punishable under Sections 498-A, 323, 504, 506 r/w 34 of IPC

as well as consequential proceeding in RCC No.330 of 2022 pending before the Judicial Magistrate First Class, Rahuri, District Ahmednagar is hereby quashed and set aside **to the extent of applicants Nos.3 to 7 herein.**

[iii] The application stands disposed of as withdrawn in respect of applicant nos.1 and 2 i.e. Dhananjay Sudam Sase and Ranjana Sudam Sase. The Proceeding in RCC No.330 of 2022 may continue against them in accordance with law.

[iv] Criminal application stands disposed of accordingly.

[S.G. CHAPALGAONKAR, J.]

[SMT. VIBHA KANKANWADI, J.]

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aaa/-(f).