



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3620 OF 2022

1. Bajirao S/o Shamrao Pawar (Patil),
Age : 53 Years, Occ. Labour (Father-in-law)
2. Sunandabai W/o Bajirao Pawar (Patil)
Age : 48 Years, Occ. Household,
R/o. Waghdu, Tal. Chalisgaon,
Dist. Jalgaon (Mother-in-law)
3. Shital W/o Dhanraj Pawar,
Age : 32 Years, Occ. Household,
R/o. Mukti, Tal & Dist. Dhule (Sister-in-law)
4. Rupali W/o Ishwar Patil,
Age : 29 Years, Occ. Household, (Sister-in-law)
R/o. Bahal, Tal. Chalisgaon,
Dist. Jalgaon ..Applicants
(Ori. Accused)

VERSUS

1. The State of Maharashtra,
Through the Police Sub Inspector,
Kasoda Police Station, Kasoda
Tal. Erandol, Dist. Jalgaon.
2. Dipika W/o Tushar Patil,
Age : 27 Years, Occ. Household,
R/o. Nandkhurd Khurd,
Tal. Erandol Dist. Jalgaon .. Respondents
(Ori. Informant)

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Advocate for the applicants : Mr. Ujwal S. Patil
A.P.P for Respondent No.1 State : Mr. N. R. Dayma,
Advocate for Respondent No.2 : Mr. Dipesh D. Pande

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

DATED : DECEMBER 05, 2024

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

1. Respondent No.2 in the present matter has lodged FIR bearing No. 0067/2022 dated 18.06.2022, against her husband, parents-in-law and sisters-in-law for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code (IPC) with Kasoda Police Station, Kasoda, Tq. Erandol, Dist. Jalgaon. The parents-in-law and sisters-in-law of respondent No.2 have filed the present application *inter alia* praying for quashing of the FIR and consequent criminal proceedings.

2. The allegations in the FIR are that after solemnization of marriage on 29.03.2019, the in-laws of respondent No.2 looked after her properly and maintained cordial relations for a period of around two years. However, thereafter her husband got addicted to liquor and used to come to the house late in night and used to harass her by abusing her filthily. During this time, he started making demand of dowry of Rs. 3,50,000/- on the pretext that the amount was needed for getting a job. She alleges that she became pregnant, however, the husband and parents-in-law i.e. applicant Nos. 1 and 2 herein got the pregnancy aborted by falsely making her believe that she was required to undergo surgery for appendix. It is alleged that her parents tried to resolve the issue by meeting the in-laws, however, the in-laws were adamant with their demand of Rs.3,50,000/- which her parents could not fulfill. In such backdrop , FIR came to be lodged. Respondent

No.1 has completed investigation in the matter and has filed final report No. 41/2022 on 28.09.2022.

3. Applicant Nos. 1 and 2 are father-in-law and mother-in-law respectively of respondent No.2. Applicant Nos. 3 and 4 are her married sisters-in-law. The husband is not party to the present proceeding.

4. Upon hearing learned Advocate for the applicants for some time, we had expressed reservations with respect of the case in respect of applicant Nos.1 and 2 i.e. parents-in-law of respondent No.2. Learned Advocate for the applicants, on instructions, made oral motion for withdrawing the application with respect to applicant Nos.1 and 2, which we permitted. Accordingly, the application has been disposed of as withdrawn with respect to applicant Nos. 1 and 2.

5. As regards applicant Nos. 3 and 4, learned Advocate Shri Ujwal Patil has submitted that both the sisters-in-law are married and are residing elsewhere. They have no concern with the regular affairs of applicant Nos. 1 and 2 and their brother, who is husband of respondent No.2. He submitted that even perusal of FIR and statements of witnesses in the charge sheet do not make out any case for proceeding in the matter against applicant Nos. 3 and 4.

6. On the other hand Mr. N.R. Dayama, learned A.P.P and Mr. Dipesh D. Pande, learned Advocate for respondent No.2 would submit that there is specific allegation against applicant Nos. 3 and 4 that

whenever they used to visit the house of applicant Nos.1 and 2, they used to instigate the husband and his parents to harass respondent No.2. They would constantly taunt respondent No.2 and often tell their brother to sever ties with respondent No.2 by granting her divorce. This according to the learned Advocate for the respondents amounts to cruelty which is sufficient to attract the ingredients of Section 498-A of the Indian Penal Code.

7. Having heard learned respective Advocates and on perusal of the FIR and the statements of witnesses recorded during the course of investigation, which are a part of charge sheet, we are of the considered opinion that prosecution deserves to be quashed as against applicant Nos.3 and 4. Applicant Nos. 3 and 4 are married sisters-in-law, they are residing separate from the husband of respondent No.2 and her parents-in-law. The allegations with respect to taunting and instigation for granting divorce to respondent No.2 are too vague and general. Even otherwise such allegations will not amount to cruelty within the meaning of Explanation to Section 498-A of the Indian Penal Code. As regards instigation for demanding the dowry, the said allegations are also too vague and lacking in all the relevant particulars. A bald statement is made that whenever they used to visit their maternal home, they would instigate their brother and parents to raise a demand for dowry. The tentative period so also amount to be demanded as per applicant Nos. 3 and 4 is not mentioned. Likewise no

reason is assigned as to why applicant Nos. 3 and 4 would instigate their parents and brother to ask for dowry from the parents of respondent No.2.

8. There is no material lending credence to the allegations. The statements of parents and other family members of respondent No.2 also do not assign any specific role to applicant Nos. 3 and 4.

9. It will also be relevant to note that the marriage of respondent No.2 was solemnized on 29.03.2019. The FIR is lodged on 18.06.2022. As per FIR, for a period of nine months prior to 18.06.2022 i.e. date of lodging FIR respondent No.2 was residing with her parents. A clear statement is made in the FIR that for a period of two years from the date of marriage, the in-laws treated her very well. This implies that till around end of March 2021, there was no harassment to her. Since September, 2021, she has left the matrimonial house. Within this short span of six months on how many occasions did the sisters-in-law visit their maternal house and how and when they instigate their parents and brother is not mentioned. We find that respondent No.2 has unnecessarily involved the names of applicant Nos. 3 and 4 in the matter without being able to level any clear or specific allegations against them.

10. In the absence of any specific allegations, we are of the considered opinion that it will not be appropriate to continue with the criminal prosecution against applicant Nos. 3 and 4.

11. It is unfortunate that in almost every matrimonial dispute, estranged wife seeks to implicate all the family members of the husband in offence under Section 498-A of the Indian Penal Code. This Court along with the other High Courts and the Hon'ble Supreme Court of India have repeatedly taken note of this increasing tendency. The present case presents yet another example.

12. For the reasons recorded above, we are of the considered opinion that the continuation of criminal prosecution against applicant Nos. 3 and 4 would lead to abuse of process of law. We therefore quash criminal prosecution against applicant Nos. 3 and 4 and pass the following order :-

ORDER

- (I) The application is partly allowed.
- (II) The application is dismissed as withdrawn with respect to applicant Nos. 1 and 2.
- (II) FIR No.0067 of 2022 dated 18.06.2022 registered with Kasoda Police Station Kasoda, Tahsil Erandol, District Jalgaon as also RCC No. 55 of 2023 pending on the file of learned Judicial Magistrate First Class, Erandol for offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code are hereby quashed against the present applicant Nos.3 and 4 namely Shital W/o Dhanraj Pawar and Rupali Ishwar Patil.

(ROHIT .W. JOSHI)
JUDGE
Y.S. Kulkarni

(SMT. VIBHA KANKANWADI)
JUDGE