



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3796 OF 2022

1. Kiran Champalal Pimprale
age 30 yrs, Occ. Tailor,
R/o Samartha Nagar, Aurangabad.
District Aurangabad. ...Withdrawn...
 2. Kamal Champalal Pimprale,
age 49 yrs, Occ. Household.
 3. Champalal Laxman Pimprale,
age 53 years, Occ. Agri/Labour.
 4. Manoj Champalal Pimprale,
age 27 years, Occ. Household,
Applicant nos.2 to 4 are R/o Bazar Galli,
Ujjainpuri, Tq. Badnapur, Dist Jalna.
 5. Arati Umesh Akse,
age 24 yrs, Occ. Household,
R/o Hanuman Mandir Parisar,
Bhokardan, Tq. Bhokardan,
District Jalna. ..Applicants..
- Versus
- 1 The State of Maharashtra
through in-charge Beed City Police Station,
Beed, District Beed.
 2. Monika Kiran Pimprale,
age 22 yrs, Occ Household.
R/o Champavati Nagar, Barshi Road,
Beed, Tq & Dist. Beed. ..Respondents..

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Mr. M.K. Bhosale, Advocate for applicants.
Mr. A.M. Phule, APP for respondent no.1 State.
Mr. A.L. Kanade, 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.177 of 2022, dated 30.09.2022, registered with Beed City Police Station, District Beed for offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of the IPC as well as consequential proceeding in RCC No.310 of 2023 pending before learned Chief Judicial Magistrate, Beed.

2. Respondent No.2 herein lodged a report dated 30.9.2022 with police station city Beed alleging that on 16.6.2021 she has been married with Kiran Champalal Pimprale R/o Ujjainpuri, District Jalna, who was serving in a private company at Aurangabad. After marriage, she resided with her husband at Aurangabad. She was treated well for few months, however, since 20.10.2021, her husband ill-treated her, doubting character and persuaded her to reside at village. She frequently visited her matrimonial home at village. During such visit, her mother-in-law Kamalbai, father-in-law Champalal, sister-in-law Aarti and brother-in-law Manoj were asking her to bring balance of dowry and ill-treated her. On 11.9.2022 her husband demanded Rupees 1 Lakh and assaulted her. Due to misconduct of her husband she called her parents at Aurangabad, however, her husband assaulted her parents and threatened them. Lastly on 12.9.2022 she left with her parents to her maternal home and residing with her parents. On the basis of aforesaid report, crime no.177 of 2022 has been registered with police station.

3. During pendency of this application, investigation proceed and charge-sheet has been filed against in all five applicants.

4. Mr. M.K. Bhosale learned advocate appearing for the applicants, during hearing dated 18.11.2022, on instructions, sought permission to withdraw this application to the extent of applicant no.1 Kiran Champalal Pimprale i.e. husband and advanced submissions to the extent of applicant nos. 2 to 5. Consequently, application has been disposed of as withdrawn so far as applicant no.1

5. Mr. Bhosale, would submit that applicants have been falsely implicated in the aforesaid crime. Respondent no.2 resided with her husband at Aurangabad since beginning of her matrimonial life. Applicant nos.2 to 5 are residents of Ujainpuri, District Jalna and unconcern with family affairs of applicant no.1 and respondent no.2. He would submit that omnibus allegations are made against the applicants that they asked respondent no.2 to bring amount of dowry and abused her. Except such statement, there are no allegations against any of the applicants. By inviting our attention to contents of the charge-sheet, he would submit that witnesses cited are family members of respondent no.2. All statements are stereo type, omnibus and bereft of making any offence as charged against the applicants. He would therefore urge to quash the FIR and consequential proceeding against the applicants.

6. Per contra, Mr. A.M. Phule, learned APP appearing for respondent no.1 State and Mr. A.L.Kanade learned advocate for respondent no.2 vehemently opposed application contending that stipulations in the FIR and statements of the witnesses recorded during course of the investigation makes out triable case against all the applicants. Therefore, matter needs to be relegated to the trial.

7. We have considered the submissions advanced by learned advocates appearing for respective parties. We have minutely considered allegations in the FIR and witnesses cited in the charge-sheet.

8. Apparently, respondent no.2 resided with her husband at Aurangabad in pursuance of his employment in Waluj MIDC Area. Admittedly in-laws of respondent no.2 are residents of Bhokardan, District Jalna. The applicant nos.2 to 4 never resided in shared accommodation with respondent no.2. In light of the aforesaid facts, if stipulations in the FIR are considered, except omnibus allegations against applicant nos.2 to 5 that they have ill-treated respondent no.2 in pursuance of the demand of dowry, there is nothing to gather their complicity in commission of offence. No specific time, date, month or nature of ill-treatment is elaborated in the entire FIR. Omnibus statement is employed that all in-laws were ill-treating and abusing in pursuance of the demand. Therefore, from contents of the FIR, it is difficult to make out offences against the applicants. Even, on perusal of the charge-sheet, it can be gathered that family members from the maternal side of respondent no.2 recorded stereo type and omnibus statements without specific stipulations or specific overt act against any of the applicants. Therefore, on the basis of such material in the charge-sheet, charges levelled against the applicants cannot be established.

9. At this stage, reference can be given to the observations made by the Supreme Court in the matter of *Preeti Gupta and another Vs. State of Jharkhand and another, reported in (2010)7 SCC 667* 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.

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.”

10. 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.

“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 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”.

11. 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.”

12. In light of the aforesaid observations of the Supreme Court of India and nature of allegations in the FIR, we find that implication of

the applicants in subject crime is nothing but abuse of process of law. When respondent no.2 never resided in shared accommodation with applicant nos.2 to 5, her statement that they were pursuing to bring money from her parents cannot be countenanced. Pertinently, it is not contention of respondent no.2 that any specific dowry was fixed at the time of marriage. Even demand is not specified in the FIR. A vague statement is made that in-laws were pursuing to bring amount of dowry. Typical allegations regarding ill-treatment are made without giving any particulars. In that view of the matter, at the most some case may be made out only against husband for trial. However, it would be domain of the Trial Court to form independent opinion as regards to availability of ingredients of the charged offences even against applicant no.1. In this background, we are of the considered view that continuation of the criminal proceeding against applicant nos.2 to 5 on the basis of contents of the FIR and charge-sheet would be abuse of process of law. Hence, this is a fit case to exercise powers under section 482 of the Criminal Procedure Code. Hence, we proceed to pass the following order.

ORDER

- [i] Criminal application is **allowed**.
- [ii] The First Information Report in crime No.177 of 2022 dated 30.09.2022 registered with Beed City Police Station, District Beed for the offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code as well as consequential proceeding in RCC No.310 of 2023 pending before the learned Chief Judicial Magistrate, Beed are hereby quashed and set aside to the extent of applicants Nos.2 to 5 herein.

[iii] The application stands disposed of as withdrawn in respect of applicant no.1-Kiran Champalal Pimprale. Trial may proceed against him 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).