



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 4478 OF 2023

1. Ashok S/o Manik Doiphode
Age : 35 years, Occ : Private Service,
R/o Flat No.14,
Sara Sangam, Godavari,
Wadgaon Kolhati, Bajaj Nagar,
MIDC Waluj, Aurangabad,
Tq. & Dist. Aurangabad.
2. Manik S/o Masu Doiphode
Age : 59 years, Occ : Agri.,
R/o Malapuri,
Tq. Georai, Dist. Beed.
3. Panchfula W/o Manik Doiphode
Age : 57 years, Occ : Household,
R/o Malapuri,
Tq. Georai, Dist. Beed.

..APPLICANTS

-VERSUS-

1. The State of Maharashtra,
Through Police Station Officer,
Georai Police Station, Georai,
Tq. Georai, Dist. Beed.
2. Sonal W/o Ashok Doifode
Age : 30 years, Occ : Household,
R/o Gadhi, Tq. Georai,
Dist. Beed.

..RESPONDENTS

Advocate for the applicants : Mr. Sudheer R. Zambare
APP for Respondent- State : Mr. V.K. Kotecha
Advocate for Respondent No.2 : Mr. Vilas P. Savant

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

DATED : 12th DECEMBER, 2024.

JUDGMENT (PER ROHIT W. JOSHI, J.):

. The present criminal application is filed under Section 482 of the Code of Criminal Procedure (Cr.P.C.) in order to challenge F.I.R. bearing Crime No. 0354/2023 registered with Georai Police Station, Tq.Georai, Dist. Beed dated 14.07.2023, for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code (IPC) and criminal case, being Regular Criminal Case No.369/2023 pending before the Court of the learned Judicial Magistrate, First Class, Georai.

2. Respondent No.2 is the informant. Applicant No.1 is husband and applicant Nos.2 and 3 are the father-in-law and the mother-in-law respectively of respondent No.2. As per the allegations in FIR, the marriage of applicant No.1 and respondent No.2 was solemnized on 13.05.2013. The couple was blessed with two daughters from the said wedlock. The principal allegations are against applicant No.1 – husband. It is stated that he used to doubt the character of respondent No.2 and had also raised suspicion with regard to paternity of younger daughter.

3. As regards the allegation regarding demand of dowry, it is stated that around six months before lodging of the FIR i.e. somewhere around January, 2023, the applicants had made demand

for a sum of Rs.4,00,000/- for buying a Car and on refusal by respondent No.2, they have beaten her and abused her and had expelled her from the house keeping both the daughters with them. The second allegation is that on 12.07.2023, applicant Nos.1 to 3 had been to the maternal house of respondent No.2 and all the applicants demanded a sum of Rs.3,00,000/- and asked her to get the said amount from her parents. It is alleged that the husband had beaten up respondent No.2 in front of her parents whereas, the present applicants had hurled verbal abuses and had threatened her parents.

4. After completion of investigation, respondent No.1 filed final report under Section 173 of the Cr.P.C., vide charge-sheet No.253/2023 dated 26.08.2023, on the basis of which R.C.C. No.369/2023 came to be registered against the applicants, which is pending in the file of learned Judicial Magistrate, First Class, Georai, Dist. Beed.

5. During the course of hearing of the matter, learned Advocate appearing for the applicants made a motion seeking to withdraw the application for applicant No.1 – Ashok Doiphode. This was done upon taking instructions from the applicants since learned Advocate gathered that we may not be inclined to grant any relief to applicant No.1. We permitted the learned Advocate to withdraw the

application for applicant No.1. Learned Advocate pressed the matter with respect to applicant Nos.2 and 3.

6. As regards applicant Nos.2 and 3, learned Advocate has submitted that admittedly applicant Nos.2 and 3 were not residing with applicant No.1 and respondent No.2. It is clearly stated in the FIR that the parents-in-law, who are applicant Nos.2 and 3, used to visit the house of applicant No.1 and respondent No.2 intermediately. The addresses of applicant Nos.1, 2 and 3 as mentioned in the cause title of the application are different. Learned Advocate for respondent No.2 has also not contended that all the applicants were living at the same place.

7. Shri V. K. Kotecha, learned APP and Advocate Mr. Vilas P. Savant for respondent No.2 argued with vehemence that two specific incidents are quoted in the FIR alleging demand for dowry and harassment upon failure to satisfy the same. They submit that in view of such clear allegations which make out ingredients of Section 498-A of IPC, FIR should not be quashed. They further elaborate the submissions by submitting that consideration of correctness or otherwise of the allegations will be beyond our province under Section 482 of the Criminal Procedure Code.

8. We notice that there are two allegations regarding demand for dowry against applicant Nos.2 and 3. The first incident appears to be somewhere around January, 2023 and second is stated to be dated 12.07.2023. With respect to the demand in January, 2023, respondent No.2 has stated that applicant Nos.1 to 3 had jointly made a demand for a sum of Rs.4,00,000/- in order to buy a Car. It is alleged that they had beaten up respondent No.2 and driven her out of the house, and further that the daughters were kept in the custody of the applicants while expelling respondent No.2 from house. Respondent No.2 has then stated that she is residing with her parents since then i.e. from period of six months as on the date of lodging of FIR. The FIR is dated 14.07.2023. It implies that from the date of the alleged incident in January, 2023 when demand for dowry was made, she was expelled from the house and since then she was residing with her parents.

9. The second allegation pertains to the alleged incident dated 12.07.2023. Respondent No.2 alleges that applicant Nos.1 to 3 had visited her maternal house and demanded a sum of Rs.3,00,000-. It is alleged that her husband beaten up in front of her parents and applicant Nos.2 and 3 had hurled verbal abuses.

10. The prosecution has recorded statements of family members of respondent No.2, which statements are also the same as

the FIR. In fact, they are almost identical.

11. Normally, in view of the allegations made in the FIR, we would not have interfered with the matter having regard to the scope of Section 482 of the Cr.P.C. However, we need to view the present case in the light of law laid down by the Hon'ble Supreme Court in the matters of ***Preeti Gupta and another Vs. State of Jharkhand and another*** reported in ***2010(7) SCC 667*** and ***Mamidi Anil Kumar Reddy Vs. The State of Andhra Pradesh and others*** reported in ***2024 SCC Online SC 127***. In the matter of ***Preeti Gupta*** (supra), the Hon'ble Supreme Court has held that while dealing with FIR under Section 498-A of the IPC, the Courts should take pragmatic realities into consideration and be very careful while allowing the prosecution to continue against relatives of the husband, who do not reside with him. Further in the matter of ***Mamidi Anil Kumar Reddy (supra)***, following its judgment in the matter of ***Mohammed Ali Versus State of UP***, the Hon'ble Supreme Court has held that where a complainant decides to proceed against accused with an ulterior motive for wrecking personal vengeance then it is normally ensured that complaint is well drafted with all necessary particulars and pleadings, so as to make out essential ingredients of the offence. Therefore, in such cases, it is not enough merely to look at the F.I.R. to determine as to whether essential ingredients of offence are made out. In such cases, it is duty

of the Court to look into the surrounding circumstances emerging from the record with due care and circumspection. The Court must try to read between the lines taking into consideration the entire material on record. The Hon'ble Supreme Court has innumerable cases taken note of increase in number of prosecutions initiated by estranged wives against the family members of the husbands under Section 498-A of IPC and has noted that there is a tendency to implicate almost all the family members in the matters of demand for dowry.

12. We proceed with adjudging the case of applicant nos.2 and 3 in the backdrop of the above judgments of the Hon'ble Supreme Court.

13. The applicants have filed copy of the legal notice dated 24.06.2023 issued by applicant No.1 to respondent No.2. This legal notice is issued through Advocate. Respondent No.2 has issued reply to the said legal notice through Advocate. These two notices which are placed on record are not disputed by Respondent No.2. Although these notices do not form a part of the charge-sheet, we are taking these documents into consideration since exchange of notices is not disputed. It is now well settled that the material which does not form a part of charge-sheet can be taken into consideration if the genuineness thereof is not in doubt. We may refer to a judgment of the

Hon'ble Supreme Court in the matter of **Mukesh and others Vs. State of U.P. and others (Special Leave Petition (Criminal) No. 12345 of 2024)** decided on 29.11.2024 wherein it is held that in an application under Section 482 of Cr.P.C., the scope of challenge is wider than the scope of a revision challenging order taking cognizance of the matter or framing charge in the matter. In a proceeding under Section 482 of Cr.P.C., it is open for the High Court to rely upon documents which are not forming part of the charge-sheet and that criminal proceeding can also be quashed on the ground that continuation would amount to abuse of process of law. In view of the law laid down by the Hon'ble Supreme Court, we are taking into consideration the legal notice issued by applicant No. 1 – husband and reply issued by respondent No. 2 – wife.

14. The legal notice by applicant No.1 is dated 24.06.2023. Reply notice by respondent No.2 is issued in July, 2023 (date does not appear on the copy of the notice). The FIR in the matter is dated 14th July, 2023. What is relevant to be noted is that applicant No.1 – husband had issued the notice making all sorts of allegations against respondent No.2 including that she had extra marital affair, had left the house leaving behind the daughters with applicant no.1 and that she had also taken away valuable ornaments from the house. The reply notice is issued in the month of July, 2023. In this reply notice,

respondent No.2 has not levelled any allegations against applicant Nos.2 and 3. It is relevant to note that the reply notice is issued in close proximity of the FIR. It will also be relevant to state that the notices have been exchanged at a stage where the relations between the parties were completely strained. This fact assumes great significance. In our considered opinion, we are of a clear view that the allegations in the FIR are levelled against applicant Nos.2 and 3, parents of the husband, with a bad motive. The allegations clearly appears to be an arm twisting tactic. In view of the fact that the allegations appearing in the FIR do not find place in reply notice issued a few days before lodging the FIR, it is apparent that the case of prosecution as against applicant Nos.2 and 3 is a lame case which is very unlikely to succeed. In such circumstances, there is no propriety in making applicant Nos.2 and 3 face criminal trial. We may profitably refer to the judgments of the Hon'ble Supreme Court in the matter of ***Madhavro Jiwaji Rao Scindia and another Vs. Sambhajirao Chandrojirao Angre and others*** reported in ***AIR 1988 SC 709*** and ***Satish Mehra Vs. State of N.C.T. of Delhi and another*** reported in ***AIR 2013 SC 506***. In view of the above discussion, we are of clear opinion that no case is made out against applicant Nos.2 and 3 to proceed against them in the matter, and therefore, the FIR and criminal case registered against them needs to be quashed. We therefore pass the following order :-

ORDER

- (i) The application is partly allowed.
- (ii) The application in respect of applicant No.1 – Ashok Manik Doiphode stands dismissed as withdrawn.
- (iii) F.I.R. bearing Crime No. 0354/2023 registered against applicant No.2 – Manik Masu Doiphode and applicant No.3 – Panchfula W/o Manik Doiphode with Georai Police Station, Tq.Georai, Dist. Beed dated 14.07.2023, for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and criminal case, being Regular Criminal Case No.369/2023 pending before the Court of the learned Judicial Magistrate, First Class, Georai, are hereby quashed.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

sga/