



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4544 OF 2023

1. Ravsaheb s/o Bhaurao Gorde
Age : 60 years, Occupation : Agricultural,
Resident of Akhegaon, Taluka Shevgaon,
District : Ahmednagar.
(Father in law of Complainant)
 2. Vidya w/o Ravsaheb Gorde
Age : 46 years, Occupation : Housewife,
Resident of Akhegaon, Taluka Shevgaon,
District : Ahmednagar.
(Mother in law of Complainant)
 3. Bhimabai wd/o Bhaurao Gorde,
Age : 88 years, Occupation : Nil,
Resident of Akhegaon, Taluka Shevgaon,
District : Ahmednagar.
(Grand Mother in law of Complainant)
 4. Ganesh s/o Ravsaheb Gorde
Age : 33 years, Occupation : Service,
Resident of C-902, Nana Spaces,
Near basket bridge, Ravet
(Brother of husband)
 5. Archana w/o Ganesh Gorde
Age; 28 years, Occupation : Housewife,
Resident of C-902, Nana Spaces,
Near basket bridge Ravet
(Wife of brother in law)
- ...APPLICANTS

VERSUS

1. State of Maharashtra
2. Pravita w/o Bharat Gorde,
Age; 28 years, Occ; Housewife,
Through : Ramchandra Tukaram Zinjurde
Resident of At post Akhegaon,
Taluka Shevgaon, District; Ahmednagar. ...RESPONDENTS

Advocate for the Applicants : Mrs. Savita P. Kakade (Matkar)
A.G.P. for the Respondents/State : Mr.N.R. Dayama
Advocate for Respondent No. 2 : Mr. Pradeep B. Salunke

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

DATE : 13.12.2024

JUDGMENT : [PER : SHRI ROHIT W.JOSHI, J]

1. The present application is filed under Section 482 of the Code of Criminal Procedure, 1973 by the applicants praying for quashing of the First Information Report (hereinafter referred to as “the FIR” for brevity) against them, vide Crime No. 1026 of 2020 registered with Shevgaon Police Station, District Ahmednagar and criminal proceeding bearing RCC No. 04 of 2021, pending against them, on the file of Judicial Magistrate First Class, Shevgaon, District Ahmednagar for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code

(hereinafter referred to as “the IPC” for brevity). As per the contents of the FIR, the marriage of respondent No. 2/informant was solemnized with accused Bharat, some where in the year 2016 at a place named as Alandi Devachi. After marriage, the couple resided at Baramati. Major allegations in the FIR are against Bharat, husband of respondent No. 2. It transpires from the FIR that respondent No. 2 and her husband did not reside with present applicants. More importantly the marriage was a love marriage, in which the applicants or their other family members and relatives did not participate. So far as the applicants are concerned, the allegations against them are that the husband of respondent No. 2 informed her that applicants were annoyed with him because he married with respondent No. 2 without getting any amount towards dowry. Respondent No. 2 has alleged that her husband had also deserted her. Respondent No. 2 has alleged that on 08.04.2017 her husband went out of the house and did not return back till date in the evening. Therefore, she went to the house of applicant No. 1 in order to make inquiries about the whereabouts of her husband. She alleges that applicant No. 1 did not diverse in details about whereabouts of his son i.e. husband of respondent No. 2, rather abused her stating that she did not bring any dowry along with her.

This followed another allegations which pertains to 13.10.2018. She claims that on 13.10.2018 she had been to her in-laws i.e. applicants along with her parents, maternal uncle and other relatives, in order to hold talks for resolving the issue between herself and her husband. She alleges that all the applicants stated that unless a sum of Rs. 15,00,000/- was brought by father of respondent No. 2 they will not allow respondent No. 2 to reside in the matrimonial house and further that they have beaten respondent No. 2 in front of her family members and relatives.

2. Heard learned Advocate Mrs. Kakade (Matkar), for applicants, Mr. Dayama, learned APP for Respondent No. 1 State and learned Advocate Mr. Salunke, for respondent No. 2.

3. We have perused the FIR, statements of witnesses, other material and the charge-sheet with able assistance of learned Advocates and learned APP.

4. On perusal of the entire material and rival submissions, we are of the opinion that criminal prosecution against present applicants needs to be quashed. It is un-disputed that the marriage

between respondent No. 2 and her husband Bharat was a love marriage, which was solemnized without participation or even knowledge of the present applicants. Respondent No. 2 and her husband resided separate from the applicants ever since the date of marriage. The allegations regarding the demand of dowry and harassment are made against the husband. It is also apparent from the record that the husband has deserted the respondent No. 2. In the back drop of these facts the allegation is made in the FIR about the incident dated 13.10.2018. The allegation is that the applicants did not agree for allowing respondent No. 2 to live with them in her matrimonial house unless she brought a sum of Rs. 15,00,000/- from her father. This demand is allegedly in the presence of parents, maternal uncles and few other relatives of respondent No. 2. It is also alleged that the present applicants have verbally abused and beaten up respondent No. 2 on 13.10.2018. Surprisingly the FIR and other statements are absolutely silent, as to what steps did taken by respondent No. 2 and other relatives accompanying her, took in order to prevent the physical assault on her. It is not even stated that they had intervened to stop the assault. It is unbelievable that the applicants would verbally abuse and beat up respondent No. 2 in the presence of her family

members and relatives and that too all of a sudden on 13.10.2018, when respondent No. 2 had been to the house of applicants along with her family members.

5. It will be pertinent to mention here that the incident of alleged demand of dowry, verbal abuse and beating is stated to be dated 13.10.2018 and the FIR is lodged on 02.11.2020. The delay of 25 months in lodging FIR speaks for itself. Delay by itself cannot be a ground for quashing the FIR, however, the said aspect of delay needs to be viewed in the peculiar facts of the present case that when respondent No. 2 married, in that discreet ceremony the applicants or their other family members and the relatives did not participate, the couple never resided with the applicants and all of sudden it is alleged that on 13.10.2018 respondent No. 2 visited the house of applicants along with her family members, where the demand of dowry was made and she was abused and beaten up.

6. We are convinced that the implication of the applicants in this matter is with malafide intent and to pressurize the husband into resolving the matrimonial discord. The FIR against the applicants is clearly frivolous and vexatious.

7. The allegations in the FIR are improbable and unbelievable. The allegations need to be viewed with circumspection, in the back drop of trend that is evolved for implicating the names of all the family members under Section 498-A in case of matrimonial disputes.

8. The Honourable Supreme Court has held in the matter of **Mamidi Anil Kumar Reddy v. The State of Andhra Pradesh & Anr.** reported in 2024 SCC Online 127, that the instances of vexatious and frivolous complaints, the High Courts entertaining applications under Section 482, must read the allegations carefully and minutely and reading between the lines is essential to prevent the abuse of process of law. It is held that the contents of the FIR should be viewed in the backdrop of facts of each case. These observations have been made by the Honourable Supreme Court noticing a spurt of cases under Section 498-A, wherein all the family members are unnecessarily involved with a view to settle score against the husband. Similar views have been expressed by the Honourable Supreme Court in the matter of **Preety Gupta and Another v. State of Zharkhand and Anaother** reported in 2010 (7) SCC 667, **G.V. Rao v. L.H.V.Prasad and Others** reported in 2000 (3)

SCC 693.

9. Having regard to the totality of circumstances, we conclude that the continuation of the prosecution against the applicants will amount to abuse of process of law, since there is no material to suggest their involvement in the offence and as such, the prosecution against them needs to be quashed. We, therefore, pass the following order :

ORDER

(i) The Criminal Application stands allowed.

(ii) The First Information Report bearing Crime No. 1026 of 2020, registered with Shevgaon Police Station, District Ahmednagar, for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and criminal proceeding bearing RCC No. 04 of 2021, pending on the file of Judicial Magistrate First Class, Shevgaon, District Ahmednagar, are hereby quashed against applicants Ravsaheb s/o Bhaurao Gorde, Vidya w/o Ravsaheb Gorde, Bhimabai wd/o Bhaurao Gorde, Ganesh s/o Ravsaheb Gorde and Archana w/o Ganesh Gorde,

(ROHIT W. JOSHI)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE