

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 532 OF 2023

Padmavati Nijappa Kamble and others ... Applicants

Versus

The State of Maharashtra and another ... Respondents

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Mr. Arun Shejwal for the Applicants.

Mr. Anand Salgaonkar, APP for the State.

Ms. Archismati Chandramore for Respondent No.2.

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**CORAM : PRAKASH D. NAIK &
N.R. BORKAR, JJ.**

DATED : 15th FEBRUARY 2024

P.C. :-

. Learned Counsel for the Applicants, at the outset, on instructions submitted that he would not press relief sought in this Application on behalf of Applicant No.1.

2. The Applicants are charge-sheeted for the offences under Sections 498A, 406, 323, 504 r/w. 34 of Indian Penal Code (IPC). The First Information Report (F.I.R.) was registered on 10th June 2017 with Nigadi Police Station vide C.R. No.324 of 2017.

3. The Applicant No.1 is the mother-in-law and Applicant No.2 is sister-in-law of the complainant. Applicant Nos.3 to 12 are the relatives of the Applicant No.1.

4. The complainant has alleged that marriage between the accused No.1 and the complainant was solemnized on 16th December 2004. Pursuant to the marriage, she joined the matrimonial home. The

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parents of the complainant had provided the ornaments to her during the marriage. The accused started demanding articles from the complainant. She was ill-treated. The ornaments were entrusted to the accused. The demand of money by husband for purchasing the car. There is misappropriation of ornaments. The relatives of the complainant's husband caused harassment and gave ill-treatment to her. On completing the investigation, charge-sheet is filed.

5. Learned Counsel for the Applicants submitted that the Applicant Nos.2 to 12 are falsely implicated in the F.I.R. The allegations against them are vague and omnibus. There is no material to substantiate the charges against them. The distant relatives are dragged into the prosecution by the complainant. Although the marriage was performed in 2004, the F.I.R. was registered in the year 2017.

6. Learned Counsel for the Applicants has relied upon the decision of the Hon'ble Supreme Court in the case of ***Kahkashan Kausar @ Sonam & others vs. State of Bihar and others***, reported in ***(2022) 6 SCC 599***.

7. Learned APP submitted that specific role has been attributed to the Applicants. There are specific allegations against the husband and mother-in-law. The sister-in-law has participated in causing harassment to the complainant. During the course of investigation, statements of the witness were recorded which supports the version of complainant.

8. Learned Counsel for the Respondent No.2 submits that there are allegations against the Applicants in the F.I.R. Specific overt act is attributed to the Applicants. There was demand of articles by the

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accused. Charge-sheet contains the evidence against the accused.

9. It is pertinent to note that marriage between the complainant and the accused No.1 was performed on 16th December 2004. According to the complainant, she continued to stay at the matrimonial home with the accused. The Applicant Nos.2 and 3 are sisters-in-law of the complainant. Applicant No.1 is the mother-in-law of the complainant and Applicant Nos.4 to 12 are relatives of the Applicant No.1.

10. We have perused the F.I.R. and the statements which form part of the charge-sheet. We find that the allegations against the Applicant Nos.2 to 12 are omnibus and vague. Applicant Nos.4 to 12 are the relatives. They are being unnecessarily dragged in the proceedings. The allegations attributed to Applicant Nos.2 to 12 are not sufficient to prosecute them for the alleged offences. No specific overt act is attributed to Applicant Nos.2 to 12. The allegations are of general nature. The husband is not party to this Application.

11. The Apex Court in several decisions has observed that the Court should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial dispute. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out.

12. The Apex Court in the case of *Kahakashan Kausar v. State of Bihar & Sonam and others vs. State of Bihar and others (supra)*, has observed that *incorporation of Section 498A of IPC was aimed at preventing cruelty committed upon a woman by her husband and her in-*

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laws, by facilitating rapid state intervention. There is an increased tendency to employ provisions such as 498A IPC as instruments to settle personal scores against the husband and his relatives.

13. In the case of ***Rajesh Sharma and Ors. v. State of U.P. & Anr. (2018) 10 SCC 472***, the Supreme Court has observed as follows :

“14. Section 498-A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the Statement of Objects and Reasons of Act 46 of 1983. The expression “cruelty” in Section 498-A covers conduct which may drive the woman to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand. It is a matter of serious concern that large number of cases continue to be filed under Section 498-A alleging harassment of married women. We have already referred to some of the statistics from the Crime Records Bureau. This Court had earlier noticed the fact that most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualised. At times such complaints lead to uncalled for harassment not only to the accused but also to the complainant. Uncalled for arrest may ruin the chances of settlement.”

14. In ***Armesh Kumar v. State of Bihar and Anr. (2014)8 SCC 273***, it was also observed that :

“4. There is a phenomenal increase in

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matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A IPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In quite a number of cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested.”

15. In *Preeti Gupta v. State of Jharkhand & Anr.*, (2010) 7 SCC 667, it has also been observed that :

“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 is also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned

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members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinised with

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great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of an amicable settlement altogether. The process of suffering is extremely long and painful.”

16. In *K. Subba Rao v. State of Telangana*, (2018) 14 SCC 452, it was observed that :

“6. .. The courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out.”

17. Considering the lack of evidence against Applicant Nos.2 to 4, we are inclined to quash the proceedings against them.

ORDER

(i) The prayer for quashing against Applicant No.1 is not pressed.

(ii) The proceedings in R.C.C. No.667 of 2019 pending before the Court of learned JMFC Pimpri, District Pune arising out of F.I.R. No.324 of 2017 dated 10th June 2017 is quashed against Applicant Nos.2 to 12.

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(ii) Criminal Application stands disposed of.

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)

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