



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 295 OF 2024

- 1) Ajay s/o Baliram Jamnik (Husband),
age: 38 years, Occu: Sr.Clerk
(Indian Navy, Mumbai)
At present: R/o. Badlapur Dist. Thane
- 2) Smt. Latabai w/o Baliram Jamnik
(mother-in-law), age: 62 years,
Occu: Household,
- 3) Baliram s/o. Tulshiram Jamnik,
(Father-in-law) age: 72 years,
Occu : Retd. Police Officer
- 4) Madhuri d/o Baliram Jamnik,
(Sister-in-law) age: 32 years,
Occu: Education,
- 5) Pravin s/o Baliram Jamnik,
(Brother-in-law) age: 35 years,
Occu: Education, Applicant Sr. Nos.2
and 5 R/o. Sagar Colony, Akola By-
Pass Ural, Dist. Akola
- 6) Yogesh s/o Baliram Jamnik,
(Brother-in-law) age: 37 years,
Occu: Professor,
At present, R/o. Ghatkopar, Mumbai
- 7) Rajesh s/o Baliram Jamnik
(Brother-in-law) age: 44 years,
Occu: Lab Tech. At Govt. Hospital
Washim
- 8) Vaishali w/o Rajesh Jamnik,
(Sister-in-law), age: 43 years,
Occu: Housewife, R/o. Sheloobazar,
Tah. Mangrulpir, Dist. Washim
- 9) Vijay s/o Baliram Jamnik,
(Brother-in-law), age: 42 years,
Occu: Office Assistant, Govt.
Hospital, Akola
At present, R/o. Sindhi Camp, Akola

.. Applicants

Versus

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| <p>1) State of Maharashtra
Through P.S.O. Ural, Akola</p> <p>2) Sau. Bhagyashri w/o Ajay Jamnik,
age: 30 years, Occu: Private,
R/o. C/o. Dagadkhed, Tah. Balapur
Dist. Akola</p> | } | <p>.. Non-applicants</p> |
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Mr. M.V.Rai, Advocate for applicants.
Mr. H.R.Dhumale, APP for non-applicant No.1.
Mr. A.M.Balpande, Advocate non-applicant No.2.

CORAM : **AVINASH G. GHAROTE AND**
ABHAY J. MANTRI, JJ.

DATED : **DECEMBER 20, 2024**

ORAL JUDGMENT (Per : Abhay J. Mantri, J.)

Heard. **Admit.** Heard finally, with the consent of the learned counsel, appearing for the parties.

(2) The applicants have invoked the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure to quash the First Information Report (for short- '*FIR*') dated 17/12/2023 vide Crime No.422/2023 registered with Ural Police Station, Akola against the applicants for the offence punishable under Section 498-A read with 34 of the Indian Penal Code (for short-'*IPC*').

In brief, the facts are as under :-

(3) The marriage of applicant No.1 – Ajay and non-applicant No.2 – Bhagyashri was solemnized on 19/03/2021, as per rites, rituals and customs prevailing in their community at Akola. From the said wedlock, they have a daughter. Applicants No.2 to 9 are the in-laws of non-applicant No.2.

(4) On account of matrimonial discord on 17/12/2023, non-applicant No.2-informant lodged a report against the applicants, alleging that the applicants subjected her to cruelty on the ground of the demand for dowry. Based on the report, the offence came to be registered against the applicants vide Crime No.422/2023 at Ural Police Station, and an investigation was going on.

(5) Being aggrieved by the said FIR, the applicants have filed this application to quash the same. On 21/02/2024, this Court passed the order and thereby "*directed the Investigating Officer to continue with the investigation, but a charge-sheet shall not be filed without obtaining prior permission of the Court*".

(6) Mr.M.V.Rai, learned Counsel for the applicants, vehemently contended that the applicants had not committed any crime. However, the non-applicant No.2 had lodged a false report to

harass them. He further canvassed that the allegations against the applicants made in the FIR are vague and general, and no specific role was attributed to them. The allegations made by her are reckless. No incriminating material has been found against them to rope them in the present crime. Even assuming the contents of the FIR are accurate, it does not prima facie disclose the ingredients of the offence as alleged. Therefore, he submitted that it is a fit case to invoke this Court's inherent jurisdiction to abuse the Court process. Hence, he urged the quashing of the proceedings against the applicants.

(7) To substantiate his contentions, he has relied upon the judgments of the Hon'ble Supreme Court in the cases of (1) ***Dara Lakshmi Narayana & others V/s State of Telangana & Another, 2024 SCC Online SC 3682***, (2) ***Kailashben Mehendrabhai Patel vs. State of Maharashtra (Criminal Appeal No.4003/2024 arising out of SLP (Cri) No.4044 of 2018)*** (3) ***Abhishek vs. State of Madhya Pradesh 2023 SCC OnLine SC 1083*** and submitted that in view of the ratio laid down in the aforesaid judgments, it is a fit case to exercise of the powers under Section 482 of the Cr.P.C. and 528 of the Bharatiya Nagrik Suraksha Sanhita, 2023 (BNSS) to quash FIR.

(8) We have appreciated the rival contentions of the parties. Perused the record and case papers produced by the learned APP and judgment relied upon by the learned Counsel for the applicants.

(9) A bare perusal of the FIR shows that the allegations made by non-applicant No.2 against the applicants are vague and omnibus. No specific allegations were made against them about their role played or how they harassed non-applicant No.2.

(10) We have also gone through the statements of Ramabai (mother), Vishwas (father), Devendra (brother), Rajkumar (brother) and Jitendra (uncle) of non-applicant No.2; they all reiterated the allegations made in the complaint by the non-applicant No.2. There statements appear to be stereotyped, vague and omnibus. These statements do not indicate that they have harassed non-applicant No.2 on account of dowry. None of the witnesses have stated the time, date, place or manner in which the alleged harassment was caused. Thus, it seems that the FIR and the statements of the witnesses lack concrete and precise allegations.

(11) *As against,* in the supplementary statement dated 26/07/2023, non-applicant No.2 categorically stated that none of the applicants beat her at any time nor made a demand of the money to her. The said supplementary statement falsifies the allegations made by non-applicant No.2 in the complaint. *Furthermore,* a material contradiction appears in the averments in the complaint and her statement, which was recorded on 01/08/2023 regarding the removal

of the ornaments from her person by her husband at the instance of her mother-in-law. In such an eventuality, merely taking omnibus allegations that they were harassing her mentally and physically and without disclosing any specific role played by them and not giving instances regarding harassment cannot be said that on account of the demand of dowry, they subjected her to cruelty.

(12) The Hon'ble Apex Court recently, in the case of **Dara Lakshmi Narayana & others V/s State of Telangana & Another, 2024 SCC Online SC 3682**, after considering the parameters laid down in the decision in **"Bhajanlal's Case"** and other various decisions of the Hon'ble Apex Court has observed that *"A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognized fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessarily harassing innocent family members."*

(Emphasis Supplied)

(13) In the case of **Kailashben Patel** (supra), the Hon'ble Apex Court, after considering the catena of judgments, has reproduced the observations made in para 20,21 &36 in **Achin Gupta vs. State of Haryana 2024 SCC OnLine SC 759**, which reads as under :-

*"20. It is now well settled that the power under Section 482 of the Cr. P.C. has to be exercised sparingly, carefully and with caution, only where such exercise is justified by the tests laid down in the Section itself. It is also well settled that Section 482 of the Cr. P.C. does not confer any new power on the High Court but only saves the inherent power, which the Court possessed before the enactment of the Criminal Procedure Code. **There are three circumstances under which the inherent jurisdiction may be exercised, namely (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of Court, and iii) to otherwise secure the ends of justice.***

*21....It would be an abuse of the process of the court to allow any action which would result in injustice and prevent the promotion of justice. **In the exercise of the powers, the court would be justified to quash any proceeding if it finds that the initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice.** When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.*

36. For the foregoing reasons, we have reached to the conclusion that if the criminal proceedings are allowed to continue against the Appellant, the same will be nothing short of abuse of process of law & travesty of justice. This is a fit case wherein, the High Court should have exercised its inherent power under Section 482 of the Cr. P.C. for the purpose of quashing the criminal proceedings."

Considering the same, the Hon'ble Apex Court held that none of the ingredients of Section 498-A, read with 34 of the IPC, were made out and allowed the said petition.

(14) In the case of **Abhishek** (supra), the Hon'ble Apex Court, after considering the parameters laid down in the decision in "**Bhajanlal's Case**", has held that the allegations levelled by the complainant therein against their in-laws with regard to how they taunted her mentally and physically for dowry or on account of wearing the dress by her are entirely insufficient to constitute cruelty in terms of Section 498-A and further observed that the allegations made by the informant therein by the applicants are wholly insufficient and prima facie did not make out a case against them. So also, they are farfetched and improbable that no prudent person can ever reach a just conclusion that there are sufficient grounds to proceed against them and quash the said FIR.

(15) The facts in the case at hand are similar to the above-cited judgments; therefore, the observations made in said judgments are squarely applicable to the case at hand. In such circumstances, the applicants cannot be attributed to the criminal prosecution, and it would be an abuse of the process of law in the absence of specific allegations levelled against each of them.

(16) *Moreover*, no specific allegations appear against the applicants that they demanded dowry at any time from the non-applicant No.2 or from her parents or they were extensively involved.

But the allegations against them are vague and general in nature. Therefore, the law laid down in the aforesaid judgments covers the case at hand.

(17) In addition, in ***Kahkashan Kausar @ Sonam and Others V. The State of Bihar and Others***, reported in **(2022) 6 SCC 599**, the Hon'ble Apex Court has held that *"the Courts should be careful in the proceedings against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths and must keep in mind that relatives of the husband should not be roped on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out."*

It is further observed that *"the ultimate object of justice is to find out the truth, punish the guilty, and protect the innocent. To find out the truth is a herculean task in the majority of these complaints. The tendency to implicate the husband and all his inmate's immediate relations is also not uncommon. At times, even if the conclusions of a 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 consider pragmatic realities while dealing with matrimonial cases. The allegations of the harassment of the husband's close relations, who had been living in different cities and never visited or rarely the place where the complainant resided, would have an entirely different complexion. The allegations of the complaint are required to be scrutinised with great care and circumspection."*

(18) To sum up the above discussion, it is evident that the complaint and statement of witnesses do not disclose the allegations

against the applicants to make them liable or hold them guilty under Section 498-A of the IPC. In such circumstances, it would not be appropriate to direct them to go through the protracting procedure, so also by merely making the general allegations that they were harassing mentally and physically her without any specific allegations of active involvement or mentioning the single incident against them, has the fact as to how they could harass her on account of demand of dowry. On the contrary, the allegations against them appear to be omnibus without a specific instance of their involvement in the crime and, therefore, in our view, applicants empathetically made out a case to invoke inherent powers of this Court to quash the proceedings in the present crime to meet the ends of justice. In addition, the allegations made in the FIR are so absurd and inherently improper against the applicants. Based on this, no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against them for the alleged offence.

(19) Thus, we find that the case at hand is squarely covered on the basis of what has been laid down and observed by the Hon'ble Apex Court in the aforesaid decisions.

(20) In view of the aforesaid discussion and the law laid down by the Hon'ble Apex Court, we find that the continuation of the

proceedings pursuant to the FIR bearing Crime No.422/2023 would result in abuse of process of the Court and would not serve the ends of justice. Therefore, in the exercise of the powers under Section 482 of the Cr.P.C./528 of the B.N.S.S., we hereby quashed and set aside the FIR bearing 422/2023 and further proceedings, if any, initiated against the applicants pursuant to the FIR.

(21) Application is allowed in the above terms. No costs.

[ABHAY J. MANTRI, J.]

[AVINASH G. GHAROTE, J.]

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