



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

CRIMINAL APPLICATION (APL) NO.817/2022

1. Jagdish Nursinghcharan Mohanti,
age 42 Yrs., Occ. Private Job.
2. Nirodh Nursinghcharan Mohanti,
age 48 Yrs., Occ. Private Job.
3. Smt Tikki Nirodh Mohanti,
age 38 Yrs., Occ. Housewife.
4. Mani Nursinghcharan Mohanti,
age 48 Yrs., Occ. Private Job.
5. Mami Nursinghcharan Mohanti,
age 52 Yrs., Occ. Nil.
6. Rina Bihariranjana Patnayak,
age 50 Yrs., Occ. Nil.
7. Bihariranjana Patnayak,
age 62 Yrs., Occ. Nil.
8. Sujit Nursinghcharan Mohanti,
age 40 Yrs., Occ. Nil.
9. Smt. Mita Ajit Patnayak,
age 38 Yrs., Occ. Nil.

All R/o Ward No.63, Berhampur,
Post Berhampur, Dist. Ganjam,
Orissa 760 002.

... Applicants

- Versus -

1. State of Maharashtra,
through its Police Inspector,

Jaripatka Police Station, Jaripatka,
Nagpur, Maharashtra 440 014.

2. Smt. Khushabu Jagdish Mohanti,
age 35 Yrs., Occ. Housewife,
R/o Quarter No.33, Sugat Nagar,
Nagpur, Maharashtra 440 014.

...Non-applicants.

Mr. K.H. Dodani, Counsel for the Applicants.
Mr. S.V. Narale, A.P.P. for Non-applicant No.1.
Mr. S.J. Parate, Counsel for Non-applicant No.2.

CORAM: VINAY JOSHI AND MRS. VRUSHALI V. JOSHI, JJ.
DATED : 28.3.2024.

ORAL JUDGMENT (Per Vinay Joshi, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. By this application the husband and relatives of husband are seeking to quash chargesheet arising out of Crime No.1118/2018 registered with non-applicant No.1 for the offence punishable under Sections 498-A, 323, 504 and 507 read with Section 34 of Indian Penal Code.

3. The prosecution case, in nutshell, is that the informant lady got married with applicant No.1 on 25.1.2015 in the State of Orissa. After marriage she started to reside at Orissa with her husband and other family members. The informant stated that after two days from marriage family members of husband started to harass her. She stated that the mother-in-law was taunting her for not offering valuables in the marriage and used to physically assault. It is alleged that the family members were pressurising and expecting a son when she was pregnant. Informant stated that since she delivered a baby girl husband has assaulted her. Since there was harassment on account of demand she has lodged the report with Jaripatka Police Station, Nagpur on 5.10.2018.

4. It necessitates us to note few facts of the case. Though final report was lodged with Jaripatka Police Station where maternal house situates, the concerned police forwarded the papers to the police of Berhampur, Orissa where the

matrimonial house existed. Correspondence letter sent by Berhampur police dated 10.10.2019 discloses that since they did not found any instances in the State of Orissa the papers were remitted back to Jaripatka Police Station. It further reveals that Jaripatka police gone on making correspondence though the papers were returned. Finally by the intervention of this Court Jaripatka police commenced the investigation in the month of November 2023 and filed chargesheet.

5. The applicants' learned Counsel would submit that though the couple was residing separately from the year 2016 after two years report has been lodged to pressurize husband and his entire family. Particularly it is submitted that the allegations are vague and general. To counter the submission the informant's learned Counsel stated that there was continuous harassment for the period of two years. Though informant has filed a maintenance proceedings and obtained favourable order the husband has not paid the maintenance sum. It is submitted that

informant lady has stated about harassment and thus there exists material to make out a case.

6. We have revisited the informant's statement as well as statements of her mother, brother and brother's friend which were recorded during the course of investigation. Conjoint reading of these statements, which are almost similar, conveys that the first part is about allegation of harassment by mother-in-law who is admittedly no more. Second part is about harassment and physical assault by applicant No.1 husband. As regards to rest we could not see any specific allegation about their role apart from general reference of relatives. In case of Kahkashan Kausar Alias Sonam and others V/s. State of Bihar and others reported in (2022) 6 SCC 599 the Hon'ble Supreme Court has expressed concern over involving maximum member of husband's family in matrimonial dispute. It is observed that on the basis of vague and general allegations the family members shall not be roped in the domestic dispute. The said decision squarely applies to the

extent of relatives of the husband. In absence of specific material continuation of prosecution against the relatives would be an abuse of the process of Court. As regards the husband is concerned there appears to be *prima facie* allegations which are to be decided during the course of trial.

7. In view of above application is partly allowed.

We hereby quash and set aside chargesheet arising out of Crime No.1118/2018 registered with non-applicant No.1 for the offence punishable under Sections 498-A, 323, 504 and 507 read with Section 34 of Indian Penal Code to the extent of applicant Nos.2 to 9 only.

Application stands disposed of in the above terms.

(MRS.VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)