

CRIMINAL APPLICATION (APL) No. 738 OF 2022

Vs.

Mr. P.V. Navlani, Advocate for the Applicants
Mr. M.K. Pathan, Advocate for Non-applicant No.1
Mr. S.K. Jain, Adv. h/f Mr. S.S. Dhengale, Advocate for Non-applicant No.2

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

DATED : 09th DECEMBER, 2024

JUDGMENT (Per : ABHAY J. MANTRI, J.)

1. Rule. Rule made returnable forthwith. By consent of the learned counsel for the parties, the application is taken up for a final hearing.

2. The applicants have invoked the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure (In short, “*Cr.P.C.*”) to quash FIR bearing Crime No. 516/2022, registered with Police Station Gadge Nagar, Amravati, against the applicants for the offences punishable under Sections 498-A and 323 read with Section 34 of the Indian Penal Code (for short- ‘IPC’) and consequently filing of the chargesheet and initiation of the criminal proceeding bearing Regular Criminal Case (*RCC*) No. 909/2022, pending against the applicants before the learned 13th Jt. C. J. J. D. and J. M. F. C., Amravati, pursuant to the FIR.

3. **FACTUAL MATRIX :**

(a) The marriage of applicant No.1 and non-applicant No.2 was solemnized on 29.12.2021, as per the rites and rituals prevailing in their community. After the marriage, non-applicant No.2 and applicant No.1 went on a honeymoon. It is alleged that during the honeymoon, applicant No.1 questioned her about her past life suspiciously. He found some unknown numbers on her mobile phone and started asking about the details of those who had those numbers. One of the numbers belonging to Siddhant Meshram found applicant No.1 in the mobile phone, so he started questioning her about her relationship with him, and quarrels used to take place between them on that ground. Applicant No.1 also suspected that non-applicant No.2 had undergone an abortion prior to marriage, and on that count, he was harassing and beating her. It is further alleged that the

informant/complainant tried to convince him about the facts, which are contrary to the allegations, but applicant No.1 continued his doubts, and on that ground, he used to harass her. Sometimes, he throttled her neck and beat her. He doubted her character and, therefore, on 31.01.2022, non-applicant No.2 lodged a complaint against the applicants at Police Station Gadge Nagar, Nagpur.

(b) Based on the said complaint, an offence was registered against the applicants vide Crime No. 516/2022 on 07.05.2022 for offences punishable under Sections 498-A and 323 read with Section 34 of the Indian Penal Code, and an investigation was carried out.

(c) Being aggrieved by the same, the applicants have filed this application to quash the said FIR. On 13.06.2022, this Court directed that the investigation may continue, but a chargesheet shall not be filed without permission of this Court.

(d) During the pendency of the application, the investigation was completed. Consequently, a chargesheet was filed in the Court. Therefore, the applicants have amended the application to challenge the chargesheet and initiation of criminal proceedings bearing R.C.C. No. 909/2022 pending before the learned J.M.F.C., Amravati, pursuant to said FIR.

4. During the hearing, the learned counsel for the applicants did not press the application for applicant No.1; therefore, the application was dismissed against applicant No.1. Heard the application for applicants Nos. 2 and 3.

5. Mr. Navlani, learned counsel for the applicants, submitted that the applicant Nos.2 and 3 are the old aged parents-in-law of non-applicant No.2. No allegations were made against them in the FIR or chargesheet about the causing of ill-treatment and cruelty to non-applicant No.2 on account of demand of dowry. However, they have

been falsely implicated in the present crime to harass them. Therefore, he submitted that on the said ground alone, the application be allowed against applicant Nos.2 and 3.

6. He further argued that the allegations against applicants Nos.2 and 3 are vague and omnibus. Besides casual references to their names, no other material allegations were found against them in the entire chargesheet. The charge sheet does not prima facie constitute any offence against applicant Nos.2 and 3 as alleged, and, therefore, he urged that this is a fit case to quash the criminal proceedings against them.

7. As against this, Mr. M.K. Pathan, learned APP, and Mr. K.S. Jain, Advocate holding for Mr. S.S. Dhengale, learned counsel for non-applicant No.2, vehemently contended that the allegations in the FIR and the statements of witnesses, *prima facie* denotes that the applicants were actively involved in the present crime. The informant has

categorically alleged that applicant No.1 was harassing her and taking doubt on her character. He used to beat her, and applicants Nos.2 and 3 kept quiet, thereby supporting him in the alleged crime. Therefore, they submitted that it cannot be said that no offence is made out against applicants No.2 and 3. On the contrary, sufficient material appears against the applicants to show that they were involved in the crime, and hence, they urged the dismissal of the application.

8. We have appreciated the rival contentions of the parties, perused the FIR and the entire chargesheet, and considered the mandate laid down by the Hon'ble Apex Court in various decisions.

9. A bare perusal of the FIR and the statement of witnesses, i.e. mother, namely Chhaya W/o Vijay Armal and father, namely Vijay S/o Balwantrao Armal of the informant, no specific allegations appear against applicants No. 2 and 3 that they were harassing the non-applicant No.2 on

the ground of demand of dowry or they have subjected her to the cruelty on account of demand of dowry, but the allegations against them are vague and omnibus. Their statements indicate no incriminating allegations against applicants No.2 and 3. Moreover, no specific allegations were made against non-applicants No.2 and 3 about their role played. They were involved in the alleged crime only on the allegations that they told her that they had never seen a daughter-in-law like her and asked her to go back to her maternal house. The said allegation itself is not sufficient to constitute the offence under Section 498-A of the Indian Penal Code, as held by the Hon'ble Apex Court in various decisions.

10. The Hon'ble Apex Court in the case of *Kahkashan Kausar @ Sonam Vs. The State of Bihar (2022)6 SCC 599* has discussed in detail the parameters regarding the offence under Section 498-A of the IPC and about the implication of the relatives of

the husband in the crime pertaining to matrimonial dispute with intent to harass the husband and his relatives and observed that “*Considering the fact that the offence under Section 498-A is cognizable and non-bailable, the disgruntled wife uses the same as a weapon rather than a shield to harass the husband and his relatives by lodging a criminal complaint.*”

11. It is further observed that “*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 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 conclusion 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 harassment of the 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 great care and circumspection.”

12. Also held that “*The Courts should be careful in proceeding 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. Besides, the tendency of cropping up the family members in matrimonial disputes is a routine.*”

13. The Hon’ble Supreme Court in the ***State of Haryana and Others Vs. Ch. Bhajan Lal and Others [1992 Supplementary (1) SCC 335]*** have laid down guidelines to be adhered to while exercising the inherent powers under Section 482 of the Code. With regard to the facts, we find that the case of the applicants would fall in the category of guidelines Nos. 1, 3 and 5, which reads thus:

i) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any

offence or make out a case against the accused;

ii).....

iii) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence nor make out a case against the accused;

iv).....

v) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

14. The main ingredient to constitute the offence under Section 498-A is whether the husband or the relative of the husband of a woman subjects the woman to cruelty, and under the explanation defines the cruelty, therefore, in order to bring the allegations under the expression cruelty (i) *there must be such a conduct on the part of the husband or his relatives which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health of the women;* (ii) *where such harassment is to coerce her or any person related to her to meet any unlawful demand."*

15. In the case at hand, the allegations in the complaint, as well as statements of witnesses, *prima facie*, do not disclose that non-applicant No.2 has made specific allegations against applicants Nos.2 and 3 that they have subjected her to cruelty on account of demand of dowry or on the accusations of her relationship with any person to drive her to commit suicide or cause grave injury or danger to life, limb or health. Nothing in the FIR, as well as statements of witnesses, *prima facie* constitute the ingredients of cruelty or harassment to the informant at the hands of applicants No.2 and 3. Furthermore, no specific allegations appear against applicants No.2 and 3 to constitute the offence under Section 498-A of the IPC. Also, no specific role seems to be attributed to them for the so-called act alleged against applicant No.1.

16. It must be noted that although vague allegations are levelled in the FIR, the complainant fails to establish specific allegations against

applicants No.2 and 3 about their role in the commission of crime. Allowing the prosecution in the absence of clear material against applicants No.2 and 3 / parents-in-law of the non-applicant No.2 would result in abuse of the process of the Court. Therefore, as discussed above and upon consideration of the relevant circumstances and in the absence of any specific role attributed to the applicants No.2 and 3 in the commission of the offence, it would be unjust if the applicants No.2 and 3 are forced to go through the tribulation of trial, i.e. general and omnibus allegations cannot manifest in such situation, whether the relatives of the husband are forced to undergo trial. In such an eventuality, the possibility of implicating the family members of the husband to create pressure on them cannot be ruled out.

17. To sum up, it appears that the allegations against the applicants No.2 and 3 are vague and general in nature, which do not make out the role

of the applicants No.2 and 3 to establish that they have subjected the victim / non-applicant No.2 to cruelty within the meaning of Section 498-A of the Indian Penal Code. Facing criminal prosecution is a serious affair to which one shall not be pushed unless there is substantial material, merely by making the general and vague allegation that they were also involved in the mental torture of the non-applicant No.2, without mentioning a single incident against them as also the fact as to how they could be motivated or supported to the applicant No.1 about the commission of crime.

18. In the aforesaid background, we deem it appropriate to quash the proceeding initiated against the applicants Nos.2 and 3. As a result, we pass the following order:

ORDER

- I. The application is partly allowed.
- II. The FIR No. 516/2022, registered with

Police Station Gadge Nagar, Amravati, against the applicants No. 2 and 3 for the offences punishable under Sections 498-A and 323 read with Section 34 of the Indian Penal Code and filing of the Chargesheet No. 1161/2022 and initiation of the criminal proceedings bearing Regular Criminal Case No. 909/2022, pending before the learned Judicial Magistrate First Class, Amravati pursuant to said FIR, against the applicants Nos.2 and 3 are hereby quashed and set aside.

JMFC Nagpur is corrected to JMFC **Amravati** as per order dated 24.01.2025

III. Application against the applicant No.1 is already dismissed.

IV. Inform the concerned Trial Court accordingly.

V. Pending application(s), if any, stand(s) disposed of.

Rule is made absolute in above terms.

(ABHAY J. MANTRI,J.)

(AVINASH G. GHAROTE,J.)