



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

CRIMINAL APPLICATION (APL) NO. 858 OF 2024

- 1) Pravin s/o Sunil Kachhawe,
age : 34 years, Occ : Private
R/o. Telipura Sitaburdi, Nagpur
- 2) Pornima wd/o. Sunil Kachhawe,
age : 56 years, Occ : Housewife
R/o. Telipura, Sitaburdi, Nagpur
- 3) Rohit s/o Sunil Kachhawe,
age : 32 years, Occ : Private,
R/o. Telipura, Sitaburdi, Nagpur
- 4) Vishal s/o Ramesh Kachhawe,
age : 47 years, Occ : Private
R/o. Tandapeth, Lal Darwaza,
Pili Marbat, Nagpur, P.S.Panchpaoli
- 5) Jaishree wd/o. Ramesh Kachhawe,
age : 70 years, Occ : Nil,
R/o. Tandapeth, Lal Darwaza,
Pili Marbat, Nagpur, P.S.Panchpaoli
- 6) Manoj s/o Babanrao Kachhawe,
age : 34 years, Occ : Private,
R/o. Telipura, Sitaburdi, Nagpur
- 7) Vilas s/o Ramesh Kachhawe,
age : 45 years, Occ : Private,
R/o. Tandapeth, Lal Darwaza,
Pili Marbat, Nagpur, P.S.Panchpaoli

.. Applicants

Versus

- 1) State of Maharashtra
Through P.S.O. P.S.Ajani,
Tah and Dist. Nagpur
- 2) Sau. Ashwini w/o Pravin Kachhawe
age : 31 years, Occu : Private Job,
R/o. C/o. Shri Anil Bhamode,
R/o. Tandapeth, Lal Darwaza,
Pili Marbat, Nagpur, P.S.Panchpaoli

.. Non-applicants

Mr. A.B.Shende, Advocate for applicants.
Mr. H.R.Dhumale, APP for non-applicant No.1.
Mr. K.K.Gour, 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 applicant seeks to quash the charge sheet/criminal proceedings bearing R.C.C. No.1177/2023 pending before the learned A.C.J.M. Nagpur under Sections 498-A, 323, 504, and 506 read with 34 of the Indian Penal Code.

In brief, the facts are as under :-

(3) The marriage of applicant No.1 Pravin and non-applicant No.2 Ashwini was solemnized on 23/04/2014 as per the rites, rituals, and customs prevailing in their community at Nagpur. They have a son aged about 08 years from the said wedlock, who is in the custody of the non-applicant No.2 – Ashwini. Applicant No.1 is the husband,

applicant No.2 is the mother-in-law, and Applicant No.3 is the brother-in-law. Applicants No. 4 to 7 are cousin-in-laws of non-applicant No.2. Applicants No.1 to 3 reside with non-applicant No.2 at Renuka Apartment, Nagpur. The applicants, No.4 to 7, were living separately.

(4) On 08/09/2022, non-applicant No.2 Ashwini lodged the report against the applicants alleging that the applicant Nos.1 to 3 were demanding money and also asked her to bring the same from her parents; otherwise, they threatened to burn her, as well as they did not allow to talk her with her family members. On 02/09/2022, the landlord came to their house and told non-applicant No.2 to vacate the rented premises/room. Therefore, she went to her parent's house. On 05/09/2022, she learnt from the apartment residents that on 03/09/2022, her husband entered the flat and, behind her back, took away entire household articles from the said flat. It is also alleged that applicants No.4 to 7, along with two friends, used to visit their house, and they were instigating applicants No.1 to 3 to bring money from their parents. On that count, applicants No.1 to 3 were physically as well as mentally tortured on account of the demand for dowry, and therefore, she has lodged the report at Ajani Police Station.

(5) Based on the report, on 08/09/2022, the offence vide Crime No.621/2022 was registered against the applicants. Pursuant to

the said FIR, the investigation was completed, and a charge sheet was filed against them at ACJM Nagpur. The case was registered vide R.C.C. No.1177/2023 and is pending. Being aggrieved by it, the applicants have moved this application.

(6) On 01/07/2024, this Court was not inclined to grant any relief to applicants No. 1 to 3 and dismissed the application against them. Thus, the application regarding applicants No. 4 to 7 is pending for consideration. They are cousins-in-law of non-applicant No.2 and were not living with them.

(7) Learned Counsel Mr. Shende for the applicants vehemently contended that applicants No.4 to 7 have no concern with the present crime; they never lived with applicants No.1 to 3 and non-applicant No.2, but they were living separately. The allegations against applicants No.4 to 7 are vague and general, and no specific role was attributed to them. The allegations against them are reckless; however, they have been falsely implicated in the present crime, merely they are related to the applicant Nos.1 to 3. No incriminating material was found against applicants No. 4 to 7 to rope them in the charge sheet. The allegations in the FIR are concocted and false, and they are made to harass applicants No.4 to 7. Therefore, learned Counsel submitted that this is a fit case to invoke the inherent jurisdiction of this Court to

quash the proceeding against applicants No.4 to 7.

(8) Mr. Dhumale, learned APP for non-applicant No.1/State and Mr. Gour, learned Counsel for non-applicant No.2, strenuously argued that prima facie there are sufficient averments appear against applicants No.4 to 7 to attract the offence under Section 498-A. The victim and other witnesses have categorically stated that all accused persons were harassing her on account of the demand for dowry. After completing the investigation, the charge sheet was filed against the applicants. Consequently, they urged that applicants failed to make out a case to cause interference by this Court under Section 482 of the Cr. P. C. and prayed the dismissal of the application.

(9) We have appreciated the rival contentions of the learned counsel for the parties and perused the application and the charge sheet.

(10) A perusal of the complaint/report reveals that allegations against applicant Nos.4 to 7 are vague and omnibus. No specific allegations appear against them, their role, how they harassed non-applicant No.2, or in which manner they instigated applicant Nos.1 to 3. Mere vague allegations appear against applicants No.4 to 7 that they were instigating applicants No.1 to 3 to ask non-applicant No.2 to bring

the amount from her parents.

(11) We have gone through the statements of Anil (father), Mangala (mother), Vijay (brother), Ujjwala (maternal aunt) of non-applicant No.2 and other relatives; they all reiterated the facts that non-applicant No.2 Ashwini narrated in the complaint. Their statements appear to be stereotyped. These statements have not provided the details nor described any particular incident of harassment by applicant Nos.4 to 7. Their statements appear vague and omnibus. They did not indicate that applicant Nos.4 to 7 were involved in the present crime. They have also not mentioned the time, date, and place or manner in which the alleged harassment was caused. Therefore, the FIR and entire charge sheet lack concrete and precise allegations against applicant Nos. 4 to 7.

(12) *Furthermore*, undisputedly, applicant Nos.4 to 7 are cousin-in-laws of non-applicant No.2 and residing separately. The FIR itself denotes that none of the applicants No. 4 to 7 are living with applicants No.1 to 3 and non-applicant No.2, but they were residing separately at their houses. In such an eventuality, mere vague and omnibus allegations that they were instigating applicants No.1 to 3 without disclosing any specific role played by them cannot be said that they had subjected non-applicant No.2 Ashwini to cruelty on account of

the demand for dowry. Neither the complainant nor the witnesses have stated that applicant Nos.4 to 7 harassed non-applicant No.2 on account of the demand for dowry nor stated any occurrence of the instances.

(13) The Hon'ble Apex Court recently, in ***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)

(14) In addition, in view of the ratio laid down in the judgements in ***Kailashben Mehendrabhai Patel vs. State of***

Maharashtra (Criminal Appeal No.4003/2024 arising out of SLP (Cri) No.4044 of 2018) and **Abhishek vs. State of Madhya Pradesh 2023 SCC OnLine SC 1083**, it is a fit case to exercise of the powers under Section 482 of the Cr.P.C. / 528 of the Bharatiya Nagrik Suraksha Sanhita, 2023 to quash FIR.

(15) Apart from above, 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."

(16) Based on the aforesaid mandate of the Hon'ble Apex Court in the above-cited decisions, we have perused the complaint and entire charge sheet; it does not disclose specific allegations against applicant Nos.4 to 7 to make them liable for bickering between non-applicant No.2 and applicant No.1 Pravin. Except for the reference to their names, it would not be appropriate to direct them to go through the protracting procedure. Also, by merely making the general allegation that they were instigating applicants No.1 to 3 without any allegations of their active involvement or mentioning a single incident against them as also the fact as to how they could be instigated demand of dowry when they are living separately, since the marriage of the non-applicant No.2 with applicant No.1. The allegations against them appear to be omnibus without a specific incident of their involvement in the crime. Therefore, in our view, the applicant Nos.4 to 7 emphatically made out a case to invoke inherent jurisdiction or powers of this Court to quash the proceedings against them in the present crime to meet the ends of justice.

(17) So also, prima facie, no material was found against the applicant Nos.4 to 7 indicating that they were subjected with cruelty to the non-applicant No.2 on account of the demand for dowry. On the contrary, the allegations made in the FIR are so absurd and inherently improper against the applicant Nos.4 to 7, based on which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against them or the allegations of provoking to applicant Nos.1 to 3 for demand of dowry against non-applicant No.2 to harass her.

(18) Thus, we find that the case at hand is squarely covered by the mandate laid down by the Hon'ble Apex Court in various decisions as cited above. In view of the discussion above and the law laid down by the Hon'ble Apex Court, we find that the continuation of the proceedings pursuant to the FIR bearing No.621/2022 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.

(19) As a result, the application is partly allowed to the extent of applicants No.4 to 7. By order dated 01/07/2024, the application is already dismissed against applicants No. 1 to 3. As a sequel, the FIR bearing No.621/2022 and filing of the charge sheet, criminal

proceedings bearing R.C.C. No.1177/2023 are pending before the learned A.C.J.M. Nagpur against applicants No.4 to 7 are hereby quashed and set aside.

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

(21) Inform the learned Trial Court accordingly.

[ABHAY J. MANTRI, J.]

[AVINASH G. GHAROTE, J.]

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