



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

CRIMINAL APPLICATION (APL) NO. 883 OF 2021

- 1) Santosh Ambadas Padmagirwar,
Age about 49 years, Occ.- Labour,
R/o Old City Manora, Tq. Manora,
District Washim.
- 2) Sau. Madhuri Rajesh Harne
(Padmagirwar), Age about 49 years,
Occupation – Housewife,
R/o Old City Karanja, Tq. Karanja,
District Washim.
- 3) Wasudev Kevalram Rafalwar,
Age about 60 years, Occ.-Housewife,
R/o Golibar Chowk, Khadkali Mohala,
Nagpur, District Nagpur.
- 4) Sau. Malti Wasudev Rafalwar,
Age about 53 years, Occ.- Housewife,
R/o Golibar Chowk, Khadkali Mohala,
Nagpur, District Nagpur.
- 5) Sau. Rekha Vijay Manchalwar,
Age about 44 years, Occ. – Housewife,
R/o Darshan Colony, Plot No.480,
in front of KDK College, Nandanwan,
Nagpur, District Nagpur.
- 6) Sau. Surekha Durgadas Wasamwar,
Age about 45 years, Occ. – Housewife,
R/o Ashok Nagar, Near the Bus Stand,
Karanja, Tq. Karanja, District Washim.
- 7) Sau. Shobha Vijay Puttewar,
Age about 60 years, Occ.- Housewife,
R/o Afsara Talkij Road, Yavatmal,
District Yavatmal.

.... **APPLICANTS**

VERSUS

- 1) State of Maharashtra,
through Police Station Officer,
Manora, Tq. Manora, District Washim.

2) Devrao Ramchandra Jawade,
Age about 68 years,
Occupation – Private Service,
R/o Gautam Nagar, Near New Tahsil
Office, Tumsar, Tq. Tumsar, District
Bhandara. Mob. 8180821885.

.... **NON-APPLICANTS**

Mr. D.N. Mudgale, Counsel for the applicants,
Mr. M.K. Pathan, Addl.PP for non-applicant No.1,
Mr. A. Ananthakrishnan, Counsel for non-applicant No.2.

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

DATE : 18th DECEMBER, 2024

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

Heard. **Admit.** By consent of the learned Counsel for the parties,
the application is taken up for final hearing.

2. Applicant No.1 is the husband, and applicants Nos.2 and 4 to 7 are the sisters-in-law of deceased Vaishali. Applicant No.3 is the husband of applicant No.4. They have invoked the inherent jurisdiction of this Court under Section 482 of the Criminal Procedure Code (for short- '*Cr. P. C.*') to quash the First Information Report (for short- "*FIR*") registered with Police Station Manora vide Crime No.29/2017 and filing of the Charge Sheet pursuant to the final report and Sessions Case No.15/2018 pending before the Additional Sessions Judge, Mangrulpur for the offences punishable under Sections 498-A and 306 r/w section 34 of the Indian Penal Code. (for short- "*IPC*")

3. In brief, the facts are that -

(a) The marriage of applicant No.1-Santosh and deceased Vaishali was solemnized on 11-05-2006 as per the rites, rituals and customs prevailing in their community at Tumsar. From the wedlock, the deceased Vaishali begets two sons, namely Himanshu and Chinmay. All sisters-in-law of the deceased Vaishali are married.

(b) On 28-01-2017, in the morning, deceased Vaishali consumed some tablets and, therefore, she became unconscious and was admitted to the hospital by applicant No.1. So, applicant No.1 informed the said fact to his sister-in-law Malti on the telephone. In the hospital, the doctor declared Vaishali as dead.

(c) On 03-02-2017, the informant, who is the father of the deceased Vaishali, lodged a report against the applicants alleging that they had subjected her to cruelty on account of the demand for dowry. It is alleged that applicants Nos.2 to 7 were instigating applicant No.1 to harass deceased Vaishali. On account of the harassment by applicant No.1, the deceased Vaishali committed suicide, and therefore, the father of the deceased lodged the report with Manora Police Station.

(d) Based on the report, the Police Station Officer at Police Station Manora registered the offence vide Crime No.29/2017 against the applicants for offences punishable under Sections 498-A and 306 r/w Section 34 of the Indian Penal Code and conducted the investigation. After the investigation, the investigating officer filed a charge sheet

against the applicants before the concerned court, and Sessions Case No.15/2018 is pending before the Additional Sessions Court, Mangrulpir.

4. It is pertinent to note that during the pendency of the application, applicant No. 1's husband did not press the application, and, therefore, the application was dismissed against him. The sisters-in-law and husband of applicant No.4 Malati challenge the institution of the proceedings against them.

5. Mr. D.M. Mudgale, learned Counsel for the applicants, vehemently contended that applicants Nos.2 to 7 have no concern with the present crime. Applicant Nos.2 and 4 to 7 are the married sisters of Applicant No.1. Their marriages were performed from 1976 to 2007, and since then, they have resided at their matrimonial houses. None of the applicants lived with the deceased Vaishali and applicant No.1-Santosh.

(a) He further canvassed that on careful perusal of the charge sheet, it reveals that the allegations against applicants Nos.2 to 7 are vague and general, and no specific role was attributed to them. The allegations made by non-applicant Nos.2 to 7 are reckless. However, they have been falsely implicated in the present crime. No incriminating material was found against the applicants in the charge sheet to rope them in the present crime. The allegations in the first information report are concocted, false, and frivolous, and they are made with the view of

taking revenge against the applicants. Therefore, he submitted that this is a fit case to invoke this Court's inherent jurisdiction to abuse the Court's process. Hence, he urges for quashing the proceedings against them.

6. Mr. M.K. Pathan, learned Additional Public Prosecutor for non-applicant No.1, and Mr. A. Ananthkrishnan, learned Counsel for non-applicant No.2, strenuously argued that applicant Nos.2 to 7 were instigating applicant No.1 to harass deceased Vaishali on account of demand of dowry; so also applicant No.1 used to take doubt on the character of the deceased and on that count also he used to beat her under the influence of liquor. The post-mortem report also discloses that six injuries were sustained to the deceased Vaishali before committing suicide. The incident of suicide occurred in the house of applicant No.1. Therefore, the applicants are responsible for the same. Hence, they urge the dismissal of the application.

7. A bare perusal of the entire charge sheet, including FIR, shows that the allegations made by non-applicant No.2 are vague and omnibus. Other than claiming that applicant No.1 Santosh harassed the deceased Vaishali on account of the demand of dowry, what appears against applicants Nos.2 to 7 is that they instigated him to do so. However, no specific allegations were made against them about their role played or how they instigated applicant No.1. The complaint does not provide any specific details nor describe any particular instances of harassment.

8. We have also gone through the statements of mother Veena, sister Shubhangi, her husband Amol and sister Madhuri of the deceased. They all reiterated the facts that the complainant, Deorao, narrated. Their statements appear to be stereotyped. The neighbours Sajjan Prasad and Abrodin, in their statements, have not stated anything against applicants Nos.2 to 7, but they only stated about the preparation of the spot panchanama in their presence. No other statement appears in the charge sheet against applicant Nos.2 to 7 except for them. These witnesses have not provided the details nor described any particular instance of harassment by applicants Nos.2 to 7. Their statements appear vague and omnibus; therefore, they do not indicate that applicant Nos. 2 to 7 were involved in the present crime. They have also not mentioned the time, date, place, or manner in which the alleged harassment occurred. Therefore, the FIR and the entire Charge Sheet lack concrete and precise allegations.

9. *Furthermore*, undisputedly, as per the first information report, applicants Nos.2 and 4 to 7 are the married sisters-in-law of deceased Vaishali, and applicant No.3 is the husband of applicant No.4 Malati. They reside in their respective matrimonial houses. The said averment itself shows that none of the applicants Nos.2 to 7 were living with applicant No.1 and deceased Vaishali. Still, since their marriage, i.e. from 1974 to 2007 respectively, they have been residing at their matrimonial houses. In

such an eventuality, a mere vague and omnibus allegation that they were instigating applicant No.1 without disclosing any specific role played by them cannot be said that they subjected the deceased Vaishali to cruelty on account of the demand of dowry or they abetted her to commit suicide.

10. 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)

11. The facts in the above-cited case and the case at hand are similar; therefore, the observations made in the said decisions squarely apply to

the case at hand. In such circumstances, they cannot be dragged into criminal prosecution, and it would be an abuse of the process of the law in the absence of specific allegations made against each of them.

12. Apart from the above, in ***Geeta Mehrotra and Another V State of U.P and Another***, reported in ***2012(10) SCC 741***, the Hon'ble Apex Court has categorically observed that "*if the contents of the first information report did not disclose specific allegations against the brother and sister of the complainant's husband to make them liable, for bickering between non-applicant No. 2 and her husband, except the casual reference of their names, it would not be just to direct them to go through the protracting procedure, so also by merely making the general allegation that they were involved for physical and mental torture of the complainant without any allegation of their active involvement or mentioning the single incident against them as also the fact as to how they could be motivated the demand of dowry when they are only related to husband as brother or sister, and therefore, quashed the proceedings against them.*"

(Emphasis supplied)

13. In the case, no specific allegations appear against applicants Nos.2 to 7, nor are there specific allegations against them that they demanded the dowry at any time from the deceased or her parents or *were actively involved*. However, the accusations against them are vague and general in nature, namely that they were instigating applicant No. 1 Santosh to

demand a dowry. Therefore, the observations made in the above-cited case squarely apply to the case at hand.

14. 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.*"

15. The individual affidavits filed by applicants Nos.2 to 7 categorically denote that they have resided at their matrimonial houses since their marriages, i.e., from 1974 to 2007, respectively, and none of them have lived with applicant No.1 Santosh and deceased Vaishali at Manora.

16. *Besides*, the law regarding power under Section 482 of the Cr. P. C. vis-à-vis under Section 306 of the IPC has been summarised by the Hon'ble Apex Court in ***Nipun Aneja and others V. State of Uttar Pradesh in Criminal Appeal No.654 of 2017*** decided on **03-10-2024**. Paragraphs 21 and 22 of the said judgment thus read as under. :-

“21. The ingredients to constitute an offence under Section 306 of the IPC (abetment of suicide) would stand fulfilled if the suicide is committed by the deceased due to direct and alarming encouragement/incitement by the accused leaving no option but to commit suicide. Further, as the extreme action of committing suicide is also on account of great disturbance to the psychological imbalance of the deceased such incitement can be divided into two broad categories. First, where the deceased is having sentimental ties or physical relations with the accused and the second category would be where the deceased is having relations with the accused in his or her official capacity. In the case of former category sometimes a normal quarrel or the hot exchange of words may result into immediate psychological imbalance, consequently creating a situation of depression, loss of charm in life and if the person is unable to control sentiments of expectations, it may give temptations to the person to commit suicide, e.g., when there is relation of husband and wife, mother and son, brother and sister, sister and sister and other relations of such type, where sentimental tie is by blood or due to physical relations. In the case of second category the tie is on account of official relations, where the expectations would be to discharge the obligations as provided for such duty in law and to receive the considerations as provided in law. In normal circumstances, relationships by sentimental tie cannot be equated with the official relationship. The reason being different nature of conduct to maintain that relationship. The former category leaves more expectations, whereas in the latter category, by and large, the

expectations and obligations are prescribed by law, rules, policies and regulations.

22. The test that the Court should adopt in this type of cases is to make an endeavour to ascertain on the basis of the materials on record whether there is anything to indicate even prima facie that the accused intended the consequences of the act, i.e., suicide. Over a period of time, the trend of the courts is that such intention can be read into or gathered only after a full-fledged trial. The problem is that the courts just look into the factum of suicide and nothing more. We believe that such understanding on the part of the courts is wrong. It all depends on the nature of the offence & accusation. For example, whether the accused had the common intention under Section 34 of the IPC could be gathered only after a full-fledged trial on the basis of the depositions of the witnesses as regards the genesis of the occurrence, the manner of assault, the weapon used, the role played by the accused etc. However, in cases of abetment of suicide by and large the facts make things clear more particularly from the nature of the allegations itself. The Courts should know how to apply the correct principles of law governing abetment of suicide to the facts on record. It is the inability on the part of the courts to understand and apply the correct principles of law to the cases of abetment of suicide, which leads to unnecessary prosecutions. We do understand and appreciate the feelings and sentiments of the family members of the deceased and we cannot find any fault on their part if they decide to lodge a First Information Report with the police. However, it is ultimately for the police and the courts of law to look into the matter and see that the persons against whom allegations have been levelled are not unnecessarily harassed or they are not put to trial just for the sake of prosecuting them.”

In paragraph 23, it also indicates what the approach of the Court should be in dealing with such a plea, as under:-

“23. In the case on hand, the entire approach of the High Court could be said to be incorrect. The High Court should have examined the matter keeping in mind the following:

(a) On the date of the meeting, i.e., 03.11.2006, did the appellants create a situation of unbearable harassment or torture, leading the deceased to see suicide as the only escape? To ascertain this, the two statements of the colleagues of the deceased referred to by us were sufficient.

(b) Are the appellants accused of exploiting the emotional vulnerability of the deceased by making him feel worthless or underserving of life leading him to commit suicide?

(c) Is it a case of threatening the deceased with dire consequences, such as harm to his family or severe financial ruin to the extent that he believed suicide was the only way out?

(d) Is it a case of making false allegations that may have damaged the reputation of the deceased & push him to commit suicide due to public humiliation & loss of dignity.”

17. Based on the aforesaid mandate of the Hon’ble Apex Court in various decisions, we perused the complaint and the entire charge sheet. It does *not disclose specific allegations against applicants Nos.2 to 7 to make them liable for bickering between deceased Vaishali and applicant No.1 Santosh, except the casual reference of their names; it would not be appropriate to direct them to go through the protracting procedure, so also by merely making the general allegation that they were instigating to applicant No.1 without any allegation of their active involvement or mentioning the single incident against them as also the fact as to how they could be motivated the demand of dowry when they are living in different cities.* The allegations against them appear to be omnibus without a specific instance of their involvement in the crime and, therefore, in our view, applicants Nos.2 to 7 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. So also, *prima facie*, no material was found against applicants Nos.2 to 7 indicating that they had abetted deceased Vaishali soon before her death. However, the allegations made in the first information report are so absurd and inherently improbable against applicant Nos.2 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 No.1 by applicants Nos.2 to 7 on account of demand of dowry does not amount to encourage applicant No.1 to abet the deceased Vaishali to commit the suicide.

18. In addition, there is no material on record to indicate that Vaishali took her own life due to any direct and alarming encouragement/incitement by applicant Nos.2 to 7, leaving no option but to commit suicide or that same was on account of great disturbance due to psychological imbalance of the deceased, on account of any such incitement, as admittedly, they were not living with the applicant No.1 and deceased Vaishali but had been living in different cities.

19. Thus, we find that the case at hand is squarely covered by what has been held and observed in the above-cited decisions of the Hon'ble Apex Court.

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 before the Trial Court would result in abuse of the 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. Act, we

hereby quash and set aside the First Information Report (for short-“*FIR*”) registered with Police Station Manora vide Crime No.29/2017 and filing of the Charge Sheet pursuant to the final report and Sessions Case No.15/2018 pending before the Additional Sessions Judge, Mangrulpir for the offences punishable under Sections 498-A and 306 r/w section 34 of the Indian Penal Code, against applicants Nos.2 to 7. It is made clear that the application against applicant No.1 has already been dismissed as not pressed. The application is partly allowed in the above terms.

21. Accordingly, inform the learned Additional Sessions Judge, Mangrulpir.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

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