



Judgment

apl762.23

1

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

CRIMINAL APPLICATION [APL] No. 762 OF 2023.

1.Kiran s/o Digambar Ladhe,
Aged about 23 years, Occupation – Labor,

2.Shrikrushna s/o Vinayakrao Ladhe,
Aged about 40 years, Occupation – Farmer,

Both residents of At post Degaon, Tahsil
Balapur, District Akola – 444502.

3.Mangesh s/o Shatrughan Junghare,
Aged about 34 years, Occupation – Teacher,

4.Pallavi w/o Mangesh Junare,
Aged about 28 years, Occupation – Housewife,

Applicant Nos.3 and 4 are residents of
Jigaon, Tahsil Nandura, District Buldhana. ...

APPLICANTS.

VERSUS

1.State of Maharashtra,
through Police Station Officer,
Khamgaon City, Buldhana.

2.Kiran w/o Vaibhav Ladhe,
Aged 23 years, Occupation Household,

Rgd.

resident of C/o. Shrikrushna Purnaji
Upadhe, Jay Bhawani Aakhada,
Chandmari Chowk, Khamgaon,
District Buldhana 444 303.

... **NON-APPLICANTS.**

Shri S. Shrivastava, Advocate for Applicants.
Shri M. Badar, A.P.P. for Non-applicant No.1/State.
Shri C.N. Wankhade, Advocate for Non-applicant No.2.

**CORAM : VINAY JOSHI AND
VRUSHALI V. JOSHI, JJ.**

DATE : JANUARY 30, 2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard. **Admit.**

By consent of the learned Counsel for the parties, the
matter is taken up for final disposal.

2. This is an application seeking to quash the first
information report bearing Crime No.204/2023 registered with
Khamgaon City Police Station, District Buldhana for the offence
punishable under Sections 498-A, 504 read with Section 34 of the
Indian Penal Code.

Rgd.

3. Applicants herein are – brother-in-law, cousin brother-in-law, Sister-in-law and her husband, of the informant lady. Husband and in-laws of informant are not before us. The marriage between the informant and Vaibhav took place on 21.02.2022, from which the informant started to reside with her husband and in-laws. It is her contention that soon after the marriage she has been harassed by her husband and parents-in-law on various counts. She was humiliated as well as physically harassed. It is alleged that during her stay at her matrimonial house, her husband used to physically assault, as well as the parents-in-law were also instigating her husband to raise monetary demand.

4. So far as present applicants are concerned, on careful examination we could find stray allegations at three places that too without specification. The informant has stated that applicant no.3 Manish and applicant no.4 Pallavi [accused nos.6 and 7] from time to time used to visit her matrimonial house and were instigating her husband. She has stated that both of them have defamed her in the society and once they attended the meeting for conciliation. Besides

these allegations, we are unable to see any other material in the entire police report so as to make out a role of applicants who are relatives of the husband.

5. The learned Counsel for applicants mainly emphasized that merely on the basis of vague and general allegations, entire family members cannot be implicated in the matrimonial dispute. In this regard, he has taken us through the observations of Supreme Court in case of **Kahkashan Kausar and others .vrs. State of Bihar and others – [2022] 6 SCC 599**, which reads as below :

“17. The above-mentioned decisions clearly demonstrates that this Court has at numerous instances expressed concern over the misuse of Section 498A Indian Penal Code and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analyzing the long term ramifications of a trial on the complainant as well as the Accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.

18. *Coming to the facts of this case, upon a perusal of the contents of the FIR dated 01.04.19, it is revealed that general allegations are levelled against the Appellants. The complainant alleged that 'all Accused harassed her mentally and threatened her of terminating her pregnancy'. Furthermore, no specific and distinct allegations have been made against either of the Appellants herein, i.e., none of the Appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each Accused in furtherance of the offence. The allegations are therefore general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of High Court, we have not examined the veracity of allegations made against him. However, as far as the Appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution."*

On that basis, it is submitted that in case at hand also there are no specific and distinct allegations against the family members. Besides general allegations, there is nothing to attribute their role.

6. In the light of said observations we have re-examined the

police report, as well as the statements recorded by the police during the course of investigation. By virtue of interim order the police have continued the investigation, but, charge sheet has not been filed. The learned A.P.P. has attracted our attention to the statement of parents uncle of the informant to impress that there was a specific monetary demand from the end of parents-in-law of the informant.

7. Perusal of the entire police report discloses that time and again the informant lady was harassed by her husband and in-laws. She has quoted general instances pertaining to close relatives. Admittedly applicants are relatives of husband who are staying elsewhere. There are no specifications in the police report as to on what date and /or occasion applicants visited the matrimonial house of the informant. Moreover, the specific act of present applicants has not been defined.

8. The learned Counsel for applicants would submit that the husband has issued notices for restitution on 07.01.2023 and 10.01.2023, perceiving said information, the wife has filed false police report implicating all the relatives. In case of Kahkashan

7

Kausar [supra], it has been expressed that the Court shall carefully examine the like cases so as to avoid unnecessary implication of the relatives of husband. In absence of any specific and distinct allegations, continuation of prosecution against the relatives is wholly unjustifiable. In view of above, Criminal Application needs to be allowed, hence the following order.

ORDER

- (i) Criminal Application is allowed.
- (ii) The first information report bearing Crime No.204/2023 registered with Khamgaon City Police Station, District Buldhana for the offence punishable under Sections 498-A, 504 read with Section 34 of the Indian Penal Code is hereby quashed and set aside, so far as present applicants are concerned. We make it clear that we have not examined the case of rest of the accused, for which the prosecution may go on.
- (iii) Criminal Application is disposed of in above terms.

JUDGE

JUDGE