



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

CRIMINAL APPLICATION (APL) NO.1338/2022

1. Shri Imran Khan Saheb Khan,
aged about 41 Yrs. Occ. Driver.
2. Shri Vasim Khan Saheb Khan,
aged about 38 Yrs. Occ.
3. Smt. Kausar Khan Saheb Khan,
aged about 60 Yrs., Occ. Household.
4. Sufiya Samrdip Rizwan Sheikh,
aged about 39 Yrs., Occ. Household.

All R/o Navin Basti, Ghutakala Ward,
Behind Nehru School, Chandrapur.

... Applicants

- Versus -

1. State of Maharashtra,
through Police Station Officer,
Bhandara Police Station, Bhandara.
2. Smt. Gausiya Anjum Imran Khan,
aged about 35 Yrs., Occ. Household,
R/o Abdul Rais, Nasik Nagar,
Mendha, Bhandara 441 904.

... Non-applicants

Mr. C.F. Bhagwani, Advocate for the Applicants.
Ms. Kalyani Marpakwar, A.P.P. for Non-applicant No.1.

CORAM: SMT. VIBHA KANKANWADI & MRS.VRUSHALI V. JOSHI, JJ.
DATED : 18.6.2024.

JUDGMENT (Per Mrs. Vrushali V. Joshi, J.)

Heard Mr. C.F. Bhagwani, learned Advocate for the applicants and Ms. Kalyani Marpakwar, learned A.P.P. for non-applicant No.1. None for non-applicant No.2.

2. **Rule.**

3. The applicants have filed this application for quashing the chargesheet (R.C.C. No.308/2022) for the offence punishable under Sections 498-A read with Section 34 of the Indian Penal Code arising out of Crime No.0312/2022.

4. Applicant No.1 is husband of non-applicant No.2, applicant No.2 is brother-in-law, applicant No.3 is mother-in-law and applicant No.4 is sister-in-law of non-applicant No.2. The marriage of non-applicant No.2 was solemnized with applicant No.1 on 24.7.2009 which is second marriage of both of them. Non-applicant No.2 has one son from earlier marriage and she has two sons from the marriage with applicant No.1. She has lodged the F.I.R. against the applicants

stating that the applicants behaved properly for few days and thereafter they started harassing her for demand of money and for not doing proper household work. Applicant No.1 used to suspect her character. In the year 2022 applicant No.1 asked her to bring Rs.5,00,000/- from her parents' house and drove her out. On next day when she came back without bringing money, all of them beat her and snatched both sons from her and not allowed her to talk with them. Therefore, she has lodged F.I.R. against the applicants and the crime is registered.

5. The learned Advocate for the applicants has stated that non-applicant No.2 was having habit of messaging the unknown persons and sending obscene videos. She has left the house. Therefore, applicant No.1 had sent legal notice for restitution of conjugal rights. Non-applicant No.2 has replied the same. She has not mentioned anything about the cruel treatment at the hands of the applicants in said notice. Learned Advocate for the applicants stated that he has filed copies of messages to four persons with whom she used to chat on mobile and as

applicant No.1 has filed divorce petition she has lodged the F.I.R. against all the applicants and roped all the family members in said crime. She has not made specific allegations against any of the family members. She was not ready to stay in joint family and, therefore, she made allegations against all the family members. As no specific allegations are there against any of the applicants, he has prayed to quash the criminal proceedings.

6. Learned A.P.P. has opposed the application. She has stated that non-applicant No.2 has specifically mentioned that when applicant No.1 asked her to bring money from her parents' house, on failure to meet the demand by non-applicant No.2, they did not allow her to talk with her children. Applicant Nos.2, 3 and 4 also beat her, therefore, this is not a fit case to quash the criminal proceedings.

7. Heard both sides. Perused the record.

8. The specific allegations are made against applicant No.1 about beating and demand of money. Though applicant

No.1 has filed screenshots of messages send by her to somebody else, it is the matter of trial and it requires evidence. The specific allegations about demand and beating to non-applicant No.2 are there. Therefore, case is not made out against applicant No.1 to quash the criminal proceedings and he has to face the trial to prove his defence.

9. This is a second marriage of non-applicant No.2 and applicant No.1. The main allegations are made against applicant No.1. How applicant Nos.2, 3 and 4 used to harass her is not specifically mentioned. There are general and vague allegations against all the family members. Though she was initially staying in joint family, after few days, they stayed separately on first floor. The specific allegations are not there against applicant Nos.2 to 4.

10. 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 specifically observed that tendency of involving the maximum number of members of husband's family

are at rise. On the basis of vague and omnibus allegations they shall not be put to harassment.

11. Considering the aforesaid reasons and as all the family members are roped in crime, without there being any specific allegations against applicant Nos.2, 3 and 4, following order is passed:-

We hereby quash and set aside the chargesheet (R.C.C. No.308/2022) for the offence punishable under Sections 498-A read with Section 34 of the Indian Penal Code arising out of Crime No.0312/2022 against applicant Nos.2, 3 and 4 only.

Application of applicant No.1 is rejected.

Application is partly allowed in the aforesaid terms and disposed of.

(MRS.VRUSHALI V. JOSHI, J.)

(SMT. VIBHA KANKANWADI,J.)