



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

CRIMINAL APPLICATION (APL) NO.1622 OF 2022

- 1) Aashirwad Rameshrao Deshmukh, Aged about 36 years, Occu: Service
- 2) Meena Rameshrao Deshmukh, Aged about 61 years, Occ: Household, Both R/o. Renuka Nagar, Akola, TQ. & Distt. Akola.

.... Applicants

// VERSUS //

- 1) State of Maharashtra, through Police Station Officer, Police Station, Jalgaon Jamod, Distt. Buldhana
- 2) Sau. Disha Aashirwad Deshmukh, Aged about 30 Occ. Household, R/o. Uday colony, Jalgaon Jamod, Distt. Buldhana.

.... Non-applicants.

Mr. S.K. Wankhade, Advocate for the Applicants
Ms S.V. Kolhe, APP for the Non-applicant/State
Mr. Amol G. Hunge, Advocate for the informant (appointed)

CORAM : VINAY JOSHI AND ABHAY J. MANTRI, JJ.
DATED : 18/10/2024.

ORAL JUDGMENT : (PER : ABHAY J. MANTRI, J)

1. Heard.

2. **Rule.** Rule is made returnable forthwith and heard finally by the consent of the learned counsel for the parties.

3. The applicants invoke the inherent jurisdiction of this court to quash the First Information Report (FIR), bearing Crime No.530 of 2022, registered against them for the offence punishable under Sections 498-A, 323, and 504 of the Indian Penal Code (IPC) with Police Station Jalgaon Jamod Dist. Buldhana.

4. In brief, the facts are that on 11.12.2016, the marriage of applicant no 1 was solemnized with non-applicant No.2. Thereafter, on 16.09.2022, non-applicant No. 2 lodged the report against the applicants alleging that after 2017, applicant No.1 assaulted her on account of unlawful demand for dowry, so also the applicants doubted non-applicant No.2's character and used to abuse her on trifle reasons.

5. On 05.05.2022, non-applicant No. 2, with her mother and daughter, had been to the applicants' house. At that time, applicant No. 1 pushed her and drove her out of the house. So, she went to Jalgaon Jamod Police Station, where they referred her to the Women's Cell for redressal of her grievance, but in vain. Hence, she lodged the FIR. Non-applicant No.2 also filed a petition under the Domestic Violence Act, which is still pending; therefore, this application.

6. Mr. S.K. Wankhede, learned counsel for the applicants, has vehemently contended that according to non-applicant no.2 informant, an incident occurred on 05.05.2022, and a report was lodged on 16.09.2022. However, the delay caused in lodging the FIR has not been explained by the informant, and on this ground alone, the FIR is liable to be quashed.

7. To substantiate his contention, he has relied upon the decision of the Hon'ble Supreme Court in the case of *Achin Gupta Vs. State of Haryana and Anr.* (AIR 2024 SC 2548) and drew our attention to paragraph 19 of the said decision.

8. Secondly, he contended that upon perusal of the FIR prima facie, no offence has been made out against the applicants as alleged, and therefore, he has urged that the FIR is liable to be quashed.

9. On the other hand, the learned APP and Mr. Amol Hunge, learned counsel for the informant, strongly resisted the application and argued that the FIR *prima facie* discloses the commission of the offence under Sections 498-A, 323, and 504 of the IPC; hence, they have urged for dismissal of the application.

10. We have perused the FIR. It *prima facie* discloses the averment about the commission of the offence under Sections 498-A, 323 and 504 of the IPC; therefore, we do not find substance in the contention of the learned counsel for the applicants in that regard that *prima facie* no offence is made out as alleged.

11. We would like to reproduce Paragraph No. 19 of *Achin Gupta*, on which the applicants relied, which reads thus:

“19. It is also pertinent to note that Respondent No. 2 lodged the FIR on 09.04.2021, i.e., nearly 2 years after the filing of the divorce petition by the Appellant and 6 months after the filing of the domestic violence case by her mother-in-law. Thus, the First Informant remained silent for nearly 2 years after the divorce petition was filed. With such an unexplained delay in filing the FIR, we find that the same was filed only to harass the Appellant and his family members.”

12. In the present case, the incident is alleged to have occurred on 05.05.2022, and on the same day, the informant went to the police station to lodge the report. However, the matter was referred to the Women's Cell for redressal of her grievance, but in vain. After that, the offence was immediately registered against the applicants. Moreover, the ingredients of the offence *prima facie* disclose that it can be termed as a continuous cause of action. Apart from the above, the delay caused in

filing the complaint would not cause harm to the informant's case. Furthermore, the facts in the above-cited decision and the case at hand are different, so observations made in it are not helpful to the applicants in support of their case.

13. In the wake of the above discussion, we do not find substance in the contentions of the learned counsel for the applicants that the delay has been caused in filing the FIR.

14. Consequently, in our view, no case is made out to call interference in the application by invoking the inherent power of this court under Section 482 of the CrPC, as the application is bereft of any merit, and the same is liable to be rejected. Accordingly, we deem it appropriate to pass the following order:

- (i) The application is **rejected**. No order as to costs.
- (ii) Fees of the appointed counsel be quantified as per the Rules.
- (iii) Inform the Trial Court immediately.

Rule stands discharged.

[ABHAY J. MANTRI, J]

[VINAY JOSHI, J]