



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

CRIMINAL APPLICATION (APL) NO.1656 OF 2022

1. Shri Prashant S/o Nandkumar Amale,
aged about 30 years, Occ: Service, R/o C/o
House of Maroti Karankar, Plot no. 231,
Police Nagar, Hingna Road, Nagpur P.S
MIDC. Originally residing at C/o
Nandkumar Amale (Patil) Tivrang (J)
Tehsil Mahgaon, Dist, Yavatmal – 445205.
2. Nandkumar S/o Vasantrya Amale
aged about 66 years, Occ: Agriculturist,
R/o Tivrang (J) Tehsil Mahagaon, Dist.
Yavatmal – 445205.
3. Sou. Tara w/o Nandkumar Amale,
aged about 61 years, Occ-Household,
R&C/o Nandkumar Amale, Tivrang (J)
Tehsil Mahagaon, Dist. Yavatmal -
445205.
4. Sou. Radhika w/o Vaibhav Vyavhare,
aged about 29 years, Occ- Household
R/o at post Kali Tembhi, Taluka-
Mahgagon, District Yeotmal, Kali
(Tembhi) Maharashtra – 445230.

Applicants

-Versus-

1. The State of Maharashtra
Through P.S.O, Mahagaon, District
Yeotmal.

2. Smt. Arti w/o Prashant Amale (Ku Arti D/o Ashokrao Charbhai), Aged about 28 years Occ-Private at present R&C/o Nandkumar Amale, Tivrang (J) Tehsil Mahagaon, Dist. Yavatmal- 445205 Before marriage R&C/o Ashish Ashok Charbhai, house of Sabda Munde , Munde Niwas, T-Point, Devi Road, Ward no.3, at Post Mahur, Nanded District, Maharashtra - 431721

**Non-
applicants**

Mr. Rohit P. Dixit, counsel for the applicants.
Mr. N.H. Joshi, APP for non-applicant No.-1.
Mr. S.B. Gandhe for non-applicant -2.

**CORAM : VIBHA KANKANWADI AND
MRS.VRUSHALI V. JOSHI, JJ.
DATE : 18.07.2024.**

ORAL JUDGMENT (Per :Vrushali V.Joshi, J.)

Heard.

2. By way of this application, the applicants are seeking to quash and set aside the charge-sheet arising out of First Information Report bearing No.544/2022 registered by the non-applicant no.1 on 27.08.2022 for the offence punishable under Section 498-A, 377, 504, 506 and 323 r/w 34 of the Indian Penal Code.

3. The facts of the case in brief are as under:-

On 27.08.2022, non-applicant no.2 lodged report

stating therein that she married to one Prashant Amale on 12.05.2019. After the marriage her in-laws started harassing her on account of not bringing sufficient dowry and gift articles. It is alleged that after the birth of female child, the accused persons, i.e., applicant nos. 2,3 and 4 (her in-laws and sister-in-law), started harassing her. The informant has also stated about sexual violence at the hands of her husband and physical and mental harassment by the accused persons. Since the harassment could not be tolerated, the report was lodged. On the basis of the said report, the crime was registered.

4. Shri Dixit, Learned Counsel appearing for the applicants submits that, number of complaints have been made by applicant no.1 as well as applicant nos. 2 and 3, in respect of constant mental torture and harassment by non-applicant no.2.

5. It is submitted that, one complaint was made on 25.07.2021 and another was on 25.09.2021. In the latter, it was stated that, non-applicant no.2 used to utter bad words for applicant No.3 -(Mother of applicant no.1), further asking for divorce, threatening applicant no.1 to involve him in rape case and implicate in domestic violence cases.

6. It is further submitted that, there was a demand made by the non-applicant no.2 of the amount of Rs. 15,00,000/- as lump sum amount from the husband as petition for mutual consent

divorce was filed under 13B(1) of the Hindu Marriage Act, 1955. The only intention of the marriage was to grab money from the applicant no.1. It was a well-hatched plan and the quarrels took place on the instructions of the mother and brother of the non-applicant no.2.

7 The Learned Counsel appearing for the applicants further submits that, there was another application filed restraining the non-applicant no.2 from entering the residential premises of applicant no.1 and house of applicant nos. 2 and 3. Furthermore, non-applicant no.2 forcefully entered the house of applicant no.1 and started giving trouble to his old age parents trying to expel them from their own house. Due to this, the in-laws lodged a case at S.D.O. Umarkhed, Yavatmal, under Sections 22(2)(3)(4) and 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against the non-applicant no.2 on 06.07.2022. Due to the complaint filed by the non-applicant no.2, applicant nos. 2 to 4 had applied for the grant of anticipatory bail vide A.B.A. no. 320/2022 of which the Hon'ble Additional Judge at Pusad was pleased to allow the application on 08.09.2022. Applicant no.4 never resided in the maternal house after her marriage also, when both the parties were co-habiting. Hence, applicants have never ill-treated the non-applicant no.2 any time in the past or as alleged in the complaint.

8. *Per contra*, Shri Joshi, Learned APP, vehemently opposes the contention of the applicants, he submits that, non-

applicant no.2 was referred for medical examination and oral swab were obtained, same have been forwarded to forensic laboratory. The non-applicant no.1 also obtained medical report of the non-applicant no.2. The spot panchnama came to be conducted and statement of witnesses came to be recorded. Thus, there is availability of incriminating material against the applicants and therefore the applicants are not entitled for quashing of the F.I.R.

9. Heard the learned Advocate appearing for the respective parties.

10. The applicants are the father-in-law, mother-in-law and the sister-in-law of the non-applicant no.2. The counsel for the applicants has withdrawn the application for applicant no.1, who is the husband.

11. The non-applicant no.2 has lodged the complaint against all these applicants. The allegations under Section 377 are made against the applicant no.1. These applicants are facing the trial for offence under Section 498-A and 323, 504 and 506 of the Indian Penal Code. She has stated that after the marriage all the applicants, harassed her for demand of money and the marriage was not performed as per their wish. She was staying at Nagpur. The applicant Nos.2 and 3 were staying at Tivrang and applicant no.4 is the married sister. She is staying at Yavatmal. The general allegations are made against all these applicants that they harassed

her and instigated her husband to beat her and as she has delivered a female child they harassed her.

12. No specific incident is stated against all of the applicants. The name of applicant no.4 is mentioned only because she is sister of husband of non-applicant no.2. The applicant Nos.2 and 3 never stayed with the non-applicant No.2 at Nagpur. The mutual consent divorce petition was also filed and thereafter the non-applicant no.2 again entered the house of the non-applicant nos.2 and 3 and she tried to drove them out from their own house. Therefore, they have filed the application under the Senior Citizens Act against the non-applicant No.2. Considering the allegations made in the First Information Report, the offence is not made out against these applicant Nos.2 and 4.

13. As nothing is there against these applicants in the First Information Report and the names are mentioned of these applicants in the First Information Report, only to harass the matrimonial relatives.

14. The Hon'ble Apex court in the case of **Kahkashan Kausar Alias Sonam and ors. Vs. State of Bihar and ors.** reported in **(2022) 6 SCC 599,** has specifically observed that tendency 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. In view of the said observations made by

the Hon'ble Apex Court, the First Information Report and the Charge-sheet filed against these applicants is required to be quashed and set aside. Hence the Criminal Application is allowed.

15. In view of the above said observations, the charge-sheet arising out of First Information Report bearing No.544/2022 registered by the non-applicant no.2 with Police Station Mahagaon, District Yavatmal on 27.08.2022 for the offences punishable under Section 498-A, 377, 504, 506 and 323 r/w 34 of the Indian Penal Code is hereby quashed and set aside against the present applicants.

Criminal application stands disposed of.

(MRS.VRUSHALI V. JOSHI, J) (VIBHA KANKANWADI, J)