



Judgment

apl8.24

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

CRIMINAL APPLICATION [APL] No. 8 OF 2024.

- 1.Amol Eknath Dhanwate,
Age 34 years, Occupation –
Private Service (Husband)
- 2.Eknath Shamrao Dhanwate,
Age 63 years, Occupation –
nil (Father-in-law)
- 3.Janabai Eknath Dhanwate,
Age 60 years, Occupation –
Nil (Mother-in-law)
- 4.Shankar Eknath Dhanwate,
Age 40 years, Occupation –
Nil (Brother in law)
- 5.Vaishali Shankar Dhanwate,
Age 40 years, Occupation –
nil (Wife of brother-in-law)
- 6.Uttam Dagadu Jethe,
Age 48 years, Occupation –
Nil (Cousin maternal uncle)

Rgd.

7.Pushplata Uttam Jethe,
Age 40 years, Occupation
Nil, (Cousin maternal aunt)

Resident of Ward No.2, Wadala
Mahadeo, Tq. Shrirampur,
District Ahmednagar.

... APPLICANTS.

VERSUS

1.The State of Maharashtra,
through in charge Lonar Police Station,
District Buldhana.

2.Mamta Amol Dhanwate,
Age 23 years, Occupation –
Household, resident of c/o. Mohan
Uttam Jadhav, Wadgaon Tejan,
Taluq Lonar, District Buldhana.

... NON-APPLICANTS.

Mr. M.K. Bhosale, Advocate for Applicants.
Mr. S.S. Doifode, A.P.P. for Non-applicant No.1.
None for Non-applicant No.2 – Served.

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

DATE : AUGUST 08, 2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard. **Admit.**

By consent of the learned Counsel present for the parties, the matter is taken up for final disposal. The non-applicant no.2 – informant though served, has chosen to remain absent.

2. Applicants who are husband and relatives of the informant lady, has called in question the tenability of the criminal prosecution bearing R.C.C. No.16/2024 pending before the Judicial Magistrate First Class, Lonar, District Buldhana arising out of first information report bearing Crime No.354/2023 registered with Lonar Police Station, District Buldhana for the offence punishable under Sections 294, 323, 498-A, 506 read with Section 34 of the Indian Penal Code. Applicants urge to quash the proceedings by invoking inherent powers of this Court on the premise that continuation of prosecution would amount to abuse on the process of Court.

3. Applicant no.1 Amol got married with the non-applicant

Rgd.

no.2 – informant on 05.03.2017 and out of the said wedlock the couple had two issues. It is the case of the informant – lady that after initial period of 7-8 months, she was harassed by her husband and in-laws. All the time husband used to abuse and physically assault by suspecting her character. Rest of the accused used to instigate the husband in the said act. She has stated that the husband was also raising unlawful monetary demand of Rs.2 lakhs for purchasing car and on that count physically assaulted her.

4. The informant stated that on 02.05.2023, she red-handed caught applicant no.1 [husband] and applicant no.5 [sister-in-law] in unpleasant position, on which they got annoyed and both of them physically assaulted her by giving life threats. The informant has stated the things to other applicants, however, they scolded her and asked her to leave their house. The informant further alleges that all applicants used to taunt her, abuse her and in particular applicant no.5 was threatening her and the in-laws were asking her to bear all the harassment. She stated that on 22.09.2023, applicant nos. 1 to 5 cursed her, alleging that she could not cook properly and then her

husband has beaten and drove her by raising monetary demand.

5. During the course of investigation, the police have recorded statements of some of the relatives of the informant, who have supported the allegations raised in the first information report. The learned Counsel appearing for applicants would submit that the allegations are vague and of general nature, and thus, the conviction cannot be secured on such an insignificant statement. It is contended that though certain allegations have been leveled against applicant nos. 6 and 7, however, they are residing separately, having no role in the matrimonial dispute. It is argued that the incident dated 22.09.2023, cannot be relied since thereafter also the informant continues to reside in her matrimonial house.

6. In order to uphold the submission that on the basis of vague and general allegations the prosecution would not lie, the applicant has relied on the following decisions :

- (1) **Narayan Eknath Devkar and others .vrs. State of Maharashtra – 2022 All MR [Cri] 3193.**

- (2) **Kahkashan Kausar @ Sonam and others .vrs. State of Bihar and others – 2022 All SCR [Cri] 433.**
- (3) **Supriya Raju @ Rajkumar Biradar .vrs. The State of Maharashtra and another – 2021 All MR [Cri] 1460.**
- (4) **Anil Baban Rathod and others .vrs. The State of Maharashtra – 2021 All MR [Cri] 1455.**
- (5) **Shaikh Mushraf pasha and others .vrs. The State of Maharashtra – 2021 All MR [Cri] 3020.**
- (6) **Prasad Pradip Kulkarni and others .vrs. State of Maharashtra and another – 2021 All MR [Cri] 3253.**
- (7) **Sunil Shetty and others .vrs. State of Maharashtra and another – 2021 All MR [Cri] 4483.**
- (8) **Pranjal @ Pranjali Rohan Gourkar and another .vrs. The State of Maharashtra and another - 2021 All MR [Cri] 2870.**

7. On the other hand, the learned A.P.P. would submit that the contents of the first information report makes out specific allegation against applicant nos. 1 to 5. He has attracted out attention to two incidents dated 02.05.2023 and 22.09.2023, stated by the informant regarding the act of harassment. It is argued that the

7

relatives of the informant have supported the case of harassment and thus, it is not a stage to assess the worth of the material collected during the course of investigation.

8. We have gone through the statement of the informant which carries weight, along with rest of the statements. At the inception, we may refer to the decision of Supreme Court in case of **Kahkashan [supra]**, wherein after considering various decisions in the field, it has been ruled that in absence of a specific allegation made against in-laws attributing any specific role, on the basis of general and omnibus allegations, those relatives cannot be asked to undergo trial. Thus, the test is to see whether the allegations are vague, general or on the other hand specific one pointing out the role of applicants.

9. The contents of the first information report prominently discloses that the informant has detailed the role of applicant no. 1 husband with specific act, as well as dates. Precisely she has stated that she was beaten by her husband at the instance of not meeting monetary demands, as well as he used to suspect her character.

Reading of rest of the part discloses that the same allegations particularly leveled against applicant no.5 – Vaishali [sister-in-law], pertaining to occurrence dated 02.05.2023. The informant has stated that on that date accidentally she came across the affair, on which her husband and applicant no.5 both have beaten her and threatened of dire consequences. In addition to that, the informant has stated that applicant no.5 Vaishali used to insist her to leave the matrimonial house. Thus, at this preliminary stage we find material against both applicants.

10. As regards to rest of the applicants are concerned, we are in agreement with the submission made by the learned Counsel for applicants that the allegations against them are general, vague and omnibus. We have revisited the entire material from which we can see that the allegations against them are general in nature, stating that all the time they have instigated the husband. Though we find that somewhere the informant has stated that applicant nos. 1 to 5 used to quarrel with her by blaming that she could not cook, however, it was a general statement which pertains to day to day affair in the family.

Rgd.

Time and again the Supreme Court has cautioned for not to drag the relatives of husband in matrimonial prosecution, since facing of criminal trial is a matter of indignation. On the basis of general and vague allegations, rest of the applicants cannot be put to face the trial. In view of above, we hold that the material collected during the course of investigation is able to point out a prima facie case as regards applicant nos. 1 and 5 only. So far as rest of the applicants are concerned, continuation of prosecution on the basis of general and vague allegations would be an exercise in futility. In the circumstances, we proceed to pass the following order.

ORDER

- (i) Criminal Application is partly allowed and disposed of.
- (ii) The criminal case bearing R.C.C. No.16/2024 pending before the Judicial Magistrate First Class, Lonar, District Buldhana arising out of first information report bearing Crime No.354/2023 registered with Lonar Police Station, District Buldhana for the offence punishable under Sections 294, 323, 498-A, 506 read with Section

34 of the Indian Penal Code, is hereby quashed and set aside to the extent it relates to Applicant No.2 – Eknath Shamrao Dhanwate, Applicant No.3 – Janabai Eknath Dhanwate, Applicant No.4 – Shankar Shamrao Dhanwate, Applicant No.6 – Uttam Dagadu Jethe and Applicant No.7 – Pushplata Uttam Jethe only.

- (iii) As regards the Applicant No.1 – Amol Eknath Dhanwate and Applicant No.5 – Vaishali Shankar Dhanwate, the aforesaid criminal prosecution may go on against them.

JUDGE

JUDGE