



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

CRIMINAL APPLN. (APL) NO. 921 OF 2024

Bhaskar Rameshrao Mistry (Niratkar) and others

-Vs.-

The State of Mah., thr. PSO, PS Gadge Nagar, Amravati and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's Orders.
or directions and Registrar's orders.

Mr.D.U.Thakare, Adv. for the applicants.
Mr.N.H.Joshi, APP for the respondent-State.

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

DATE : 9TH JULY, 2024

Per : Smt. Vibha Kankanwadi, J.

The present application has been filed invoking inherent powers of this Court under section 482 of the Code of Criminal Procedure for quashing the charge-sheet filed by respondent No.1-Gadge Nagar Police Station, Amravati before the Judicial Magistrate First Class, Amravati bearing Regular Criminal Case No.161 of 2019 for the offence punishable under sections 3 and 4 of the Dowry Prohibition Act. The first information report was lodged by respondent No.2.

2. Heard Mr.Thakare, Advocate for the applicants and Mr.Joshi, APP for respondent No.1. It is not even necessary to issue notice to respondent No.2, taking into consideration the points raised and the contents in the charge-sheet.

3. Respondent No.2-original informant has contended in the FIR that after the approval of herself and present applicant No.2 as well as the family members, their engagement was fixed. As per the customs, the applicants had gone to the house of respondent No.2 to see her prior to the approval. At the time of engagement on 09/04/2017, it was informed in presence of all by the applicants that there will not be give and take of articles and thereby the impression was that no dowry be given. The applicants were aware about the financial condition of the parents of respondent No.2. The date of marriage was fixed as 21/11/2017. The necessary arrangements were started the lawn i.e. the marriage venue was booked, for which cooking amount was given. When the arrangements were going on, applicant No.1 had given a phone call to the brother of respondent No.2 and told that all their family members were questioning as to why they have chosen a girl from poor family, better girls giving dowry were available and then he demanded five tolas of gold, new bike and charges of travelling expenses to and fro. He also sated that if these demands are not fulfilled, the marriage would be called off. The brother of respondent No.2 told the said fact to everybody. Thereafter her brother and cousin sister went to the house of applicants on 27/09/2017. Thereupon also the applicants reiterated the said demands and gave humiliating treatment to them. When it was tried to pacify by the cousin sister of respondent No.2 and was asked as to why those demands were not told on the date of engagement at that time, the younger brother of applicant No.2 raised chair to assault and abuse in filthy language. It was also told to the applicants that now every arrangement is being weighed and if now at this stage the marriage is called off, then it will ruin the

life of respondent No.2, but none of the applicants showed signs of pacify. Even the uncle of respondent No.2 had tried to contact applicant No.2, but he did not pick up the phone calls.

4. Now it has been argued on behalf of the applicants that the contents of the FIR do not disclose impression of offence under section 3 or 4 of the Dowry Prohibition Act. Nothing was received by the applicants. In fact, all the allegations are only against applicant No.1 and role of other accused persons has not been disclosed. The statements of witnesses are also on the same line. Therefore, it would be a futile exercise to ask the applicants to face the trial.

5. The first and the foremost fact is noted here that the FIR came to be lodged on 02/11/2017, whereas the charge-sheet has been filed on 28/01/2019 and the present application has been filed on 05/03/2024. Why the applicants preferred to approach this Court belatedly has not been explained by them. They are also not disclosing the present status of the trial pending before the learned Magistrate. In fact, the learned Magistrate ought to have proceeded with the matter if there is no hurdle at all.

6. The contents of the FIR would disclose and which has not been disputed is the fact that there was engagement between the informant (respondent No.2) and applicant No.2. Now, why the marriage could not take place has been explained in the application. No doubt, it is a defence of the applicants, which need not be disclosed prior to the stage, which reached for the disclosure of the defence, but when the applicants want that this Court should exercise the inherent powers, then they

should come with those facts. As regards the contents of the FIR are concerned, though there was no direct communication to the informant, but it was to witness Mayur Nimbhorkar, the brother of informant, which was on telephone. As regards the demand is concerned, his statement under section 161 of the Code of Criminal Procedure has been recorded. As regards what happened in the house of the applicants on 27/09/2017 is concerned, along with him, the statement of cousin sister Jyoti Savarkar is also recorded. Sections 3 and 4 of Dowry Prohibition Act would come in picture, when there is demand of dowry in any form, i.e. even the articles, it need not to have been promised at the time of settlement of the marriage. Therefore, *prima facie* the sections get attracted and hence, this is not a fit case where we should exercise our inherent powers under section 482 of the Code of Criminal Procedure. The application stands rejected at the threshold.

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