



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.219 OF 2024

1. Digvijay Nivrutti Kausalye
2. Kantabai Nivrutti Kausalye
3. Nivrutti Hanmantrao Kausalye

.. Applicants

Versus

1. The State of Maharashtra
Through Officer Incharge,
Police Station Bhokar,
District Nanded.
2. Ramesh Madhavrao Lungare

.. Respondents

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Mr. S. J. Salunke, Advocate for applicants.
Mrs. P. R. Bharaswadkar, APP for respondent No.1/State.
Mr. M. L. Dharashive, Advocate for respondent No.2.

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**CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.**

DATE : 20 JANUARY 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Present application has been filed under Section 482 of the Code of Criminal Procedure initially for quashing the FIR vide Crime No.365 of 2023 dated 23.10.2023 registered with Bhokar Police Station, District Nanded and later on, by way of amendment, for quashing the proceedings in R.C.C. No.15 of 2024 pending before the learned Judicial Magistrate First Class,

Bhokar, District Nanded for the offences punishable under Sections 304-B, 306, 498-A read with Section 34 of Indian Penal Code.

2. Heard learned Advocate Mr. S. J. Salunke for the applicants, learned APP Mrs. P. R. Bharaswadkar for respondent No.1/State and learned Advocate Mr. M. L. Dharashive for respondent No.2.

3. Learned Advocate appearing for the applicants has taken us through the FIR and the contents of the charge-sheet and submits that it is not in dispute that applicant No.1 got married to the daughter of respondent No.2. The marriage between applicant and deceased Ambika took place on 15.05.2023 and further it is not in dispute that Ambika committed suicide on 07.10.2023 while she was residing with her father/respondent No.2 at Borgaon, Taluka Bhokar, District Nanded. Present respondent No.2 himself had filed A.D. when it was noticed that Ambika had hanged herself by means of Saree to the wooden beam in the house of respondent No.2. Inquest panchanama was prepared and the dead body was sent for postmortem. The postmortem report gives the cause of death as “asphyxia due to

hanging”. Learned Advocate for the applicants submits that the FIR has been lodged on 23.10.2023 and the delay has not been properly explained, when respondent No.2 himself had lodged the A.D. If we peruse the FIR then it is to be noted applicant No.1 was serving in a private bank at Pune, however, deceased Ambika was staying with her parents-in-law at Abhinav Nagar, Taluka Kandhar. There was dispute between the in-laws and Ambika. When her parents-in-law i.e. applicant Nos.2 and 3 had gone to village Chincholi to attend funeral of their relative, at that time, Ambika was alone and she left the house without informing anything to anybody. Present applicant No.2 had given a phone call to informant around 4.00 p.m. and asked as to whether Ambika had come to his house. Informant has answered it in the negative. Search was taken and ultimately applicant No.2 had lodged the missing report on 22.06.2023. She was found on 02.07.2023. The girl was taken by applicant No.2 and when informant asked permission to applicant No.2 to take Ambika to his place, applicant No.2 stated that they can take her after four days. Thereafter, she was brought to informant’s house and then he had made the inquiry, at that time, Ambika disclosed that all the applicants were asking her to bring amount of Rs.5,00,000/-

for purchasing a plot at Pune and two Tolas of gold. On that count they were unnecessarily harassing her. Due to the harassment, she went from the house without informing anybody and she wanted to commit suicide. Informant then persuaded her by saying that he would give advise to the applicants, but then on 07.10.2023 when the girl was in the house alone, due to the thoughts about harassment by the applicants, she has committed suicide. These are the allegations.

4. If the contents of the charge-sheet are perused, then it is to be noted that after Ambika was found, on 02.07.2023, her statement has been recorded whereupon she had disclosed that after the marriage the husband alone went to the place of service and she felt that he has kept distance from her and the parents-in-law were giving pinching words to her. Therefore, she was feeling left alone. She was in depression and wanted to go to parental home, but was under fear that she would be again left by the father to the matrimonial home. She decided to stand on her own feet by searching job and, therefore, she left the house. She met her friend Samadhan Santosh Chavan, who had then asked her to contact his friend Gopal Parde from Chikhli, District Buldhana. Therefore, she went to Chikhli and resided with the

family of Gopal Parde from 23.06.2023 to 01.07.2023. She was searching for the job, but could not get it. Thus, her own statement would show that there was no demand of money and harassment by the husband. He was not even residing with her and she has stated that the in-laws were giving pinching words, but she has not explained on what count. Therefore, it appears that due to the sudden demise of the daughter, the informant and the relatives have concocted story and falsely implicated the applicants. It would be unjust to ask them to face the trial.

5. Learned APP and learned Advocate for respondent No.2 strongly opposed the application and submitted that the marriage had taken place on 15.05.2023 and deceased has committed suicide on 07.10.2023. Therefore, the suicide is within seven years. Suicide is one of the circumstance of unnatural death and, therefore, Section 304-B as well as Section 306 of Indian Penal Code get attracted. The investigation is complete and, therefore, this will not be the fit case where the inherent powers under Section 482 of the Code of Criminal Procedure can be exercised.

6. The contents of the FIR as well as the statement of deceased Ambika after she was found on 02.07.2023 have already been

narrated and, therefore, they are not repeated here. The fact remains is that Ambika committed suicide when she was with her parents. Further, it is to be noted that after she was found on 02.07.2023 it appears that she had hardly resided for four days at matrimonial home and then she brought by the informant to his house. She never returned to the matrimonial home. The FIR and the statements of witnesses under Section 161 of the Code of Criminal Procedure are totally silent as to what was the routine of the girl after she came to her father's house around 06.07.2023 till 07.10.2023. It appears that in between this period, there was absolutely no communication either between Ambika and applicant No.1, Ambika and applicant Nos.2 and 3 or between respondent No.2 and applicants. It has been then tried to be stated that she came to know about the first marriage of applicant No.1 at a later point of time. When this kind of information was received, what step was taken by the father to know the real fact has not been stated. Whether the earlier marriage of applicant No.1 was still subsisting and by suppressing the said fact whether he had performed the second marriage with Ambika has not been clarified by anybody. In her statement recorded in the inquiry of the missing report on

02.07.2023, Ambika has not raised any grievance in respect of alleged second marriage with her by applicant No.1. If we consider her said statement she has stated that her maternal uncle and informant came to Kandhar Police Station to fetch her. She has no desire to return to matrimonial home, but want to go with her father and maternal uncle. That means she had not gone along with applicant No.2 at her matrimonial home after 02.07.2023. Further, in clear terms she has stated that she left matrimonial home around 12.30 p.m. on 22.06.2023 voluntarily and went to Chikhli, District Buldhana. She was safe there and came with her father safely and therefore, she has no grievance to make against anybody. In clear terms she has stated that she was under depression and thinking that the husband has kept distance from her and has not stated details of the pinching words or the reasons for pinching words by applicant Nos.2 and 3. The investigating officer in the present case has recorded the statement of Ambika's friend Samadhan Chavan wherein he has stated that he received phone call from Ambika on 22.06.2023 stating that she has come to Nanded. Her parents-in-law and husband are not good. They were not talking properly to her and they were asking her to bring amount of Rs.5,00,000/- for

purchasing plot at Pune and two tolas of gold and, therefore, they are harassing. The husband has left her on the next day of marriage and went to Pune and he had first marriage and therefore, she has no intention to go back to matrimonial home and then requested him to search for a job for her. Witness Samadhan says that he suggested Ambika that she should go to his friend Gopal Pardhe, who would make arrangement for her job and then he had then sent her to Gopal. Statement of Gopal Pardhe would show that he had received phone call from Samadhan on 22.06.2023 stating that his friend Ambika is in need of job and whether he can search for a job for her. Then on 23.06.2023 Ambika came to Chikhli alone and he allowed her to reside in his house along with his family. She was searching for a job, but she had not disclosed anything in respect of her to his wife and mother. During that period, police from Kandhar Police Station went to his house and disclosed that Ambika is married and had come to his place without informing anybody and then he came to know about the missing report lodged at the police station. Taking into consideration the statements of these two witnesses, it can be seen that they are hiding something. How police came to know that Ambika is with Gopal and that too went

there on the reference of Samadhan has not been disclosed by them. Even the informant has intentionally kept it silent and there is absolutely no whisper as to how he had gone to Chikhli to fetch Ambika. This intentional suppression will have to be considered by this Court as the applicants have stated that they have been falsely implicated. The real story as to why Ambika left the matrimonial home has not been disclosed. Now, Samadhan was interested in hiding the real fact and, therefore, it appears that he has echoed the FIR, but Ambika's statement which has been recorded by police immediately after she was found does not support the alleged demand of Rs.5,00,000/- for the plot and demand of two tolas of gold followed by alleged harassment. Another fact to be noted is that the acts of harassment have not been disclosed so as to attract the ingredients of Section 498-A of Indian Penal Code.

7. Merely because the death is within seven years of marriage it will not automatically attract the ingredients of offence under Section 304-B of Indian Penal Code. Here, the death occurred when Ambika was still with the parents. There is absolutely no *prima facie* evidence also that prior to 07.10.2023 in the near past applicants had met or had contacted Ambika in any manner.

8. Taking into consideration all these aspects and the stereotype statements of other witnesses under Section 161 of the Code of Criminal Procedure, we are of the opinion that consideration of FIR and the entire charge-sheet does not even *prima facie* disclose the ingredients of the offences under which the FIR and the charge-sheet has been registered. It can be certainly said that the applicants have been implicated with ulterior motive and, therefore, it would be unjust to ask them to face the trial. Case is squarely covered under the ratio laid down in ***State of Haryana and others Vs. Ch. Bhajanlal and others, [AIR 1992 SC 604]***, therefore, application deserves to be allowed. Hence, following order:-

ORDER

- I) Criminal Application stands allowed.
- II) The FIR vide Crime No.365 of 2023 dated 23.10.2023 registered with Bhokar Police Station, District Nanded and the proceedings in R.C.C. No.15 of 2024 pending before the learned Judicial Magistrate First Class, Bhokar, District Nanded for the offences punishable under Sections 304-B, 306, 498-A read with Section 34 of Indian Penal Code, stand quashed and set aside as against the present applicants.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm