



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1735 OF 2023

1. Sau. Kamal w/o Shivram Darade
Age : 62 Years, Occu : Household;
R/o 1-11-598, Shivkamal Building,
Nandkishor Nagar, Taroda (Bk), Nanded,
Tahsil and District Nanded.
2. Shivram Dagadu Darade
Age : 66 Years, Occu : Retired;
R/o 1-11-598, Shivkamal Building,
Nandkishor Nagar, Taroda (Bk), Nanded,
Tahsil and District Nanded.
3. Sheetal w/o Gajendra Guthe
Age : 38 Years, Occu : Household;
R/o F-1, H-1/34, N-4 CIDCO, Aurangabad.
4. Gajendra s/o Vishwaqnath Guthe
Age : 45 Years, Occu : Service; R/o F-1,
H-1/34, N-4 CIDCO, Aurangabad.

... APPLICANTS

VERSUS

1. The State of Maharashtra
through its Police Inspector, Bhaghyanagar
Police Station, Tahsil and District Nanded.
[Copy to be served on Public Prosecutor of
High Court of Bombay Bench at
Aurangabad]
2. Shraddha w/o Amol Darade
Age : 34 Years; Occu. : Household;
R/o 1-11-598, Shivkamal Building,
Nandkishor Nagar, Taroda (Bk), Nanded,
Tahsil and District Nanded.

... RESPONDENTS

Mr. P. R. Katneshwarkar, Senior Advocate I/by Mr. Kazi Rahil Riyazoddin, Advocate for Applicants.

Mr. Gajanan Kadam, Advocate for Respondent No.2.

Mr. S. A. Gaikwad, APP for Respondent No.1/State.

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

DATE : JANUARY 21, 2025.

JUDGMENT - [PER ROHIT W. JOSHI, J.]

. The Applicants in the present proceeding are arrayed as Accused Nos.2, 3, 4 and 5 in First Information Report No. 75/2023 registered with the Police Station, Bhagyanagar, Tahsil and District Nanded on 24/02/2023 for the offences punishable under Section 498-A, 354, 323, 504 and 506 read with Section 34 of the Indian Penal Code (*hereinafter referred to as 'IPC'*).

The Applicants are related to the Informant/Respondent No. 2 as under :

- (i) Applicant No. 1 Kamal - Mother-in-Law;
- (ii) Applicant No. 2 Shivram – Father-in-law;
- (iii) Applicant No. 3 Sheetal – Sister-in-Law (Married);
- (iv) Applicant No. 4 Gajendra – Husband of Sister-in-Law Applicant No.3.

2. The sum and substance of allegations in the First Information Report is that the marriage of Respondent No. 2 was solemnized with Amol Darade i.e. son of Applicant Nos. 1 and 2, on 05/04/2012. The couple has a

son named, Harshavardhan, who was born on 18/09/2014. The Respondent No. 2 alleges that initially for some days, in-laws of Respondent No.2 treated her well and everything was normal and peaceful in the family. However, on 05/04/2022, the Applicants and the husband of Respondent No. 2, who is arrayed as Accused No.1, started demanding a sum of Rs.10,00,000/- from the Respondent No. 2, asking her to get the said amount from her parents for the purpose of purchasing land for starting Tuition Classes. It will be pertinent to mention that as per the First Information Report, the Accused No.1/husband is engaged in conducting Coaching Classes and share market trading. The Respondent No. 2 alleges that she had expressed inability to arrange the amount since her parents did not have the financial capacity to fulfill the demand for such a huge amount. She further alleges that due to this, the Applicant Nos. 1 and 3 had beaten her and had also threatened to kill her. She claims that even after the birth of her child, the In-laws used to press for the monetary demand and used to harass her physically and mentally. Apart from this, an allegation is levelled against the Applicant No. 4/husband of sister-in-law, that on 10/07/2019 at about 8.00 p.m. in the night, he had pulled the Respondent No. 2 towards him by holding her hand. She claims that when she informed her husband (Accused No.1) about the incident, he and Applicant Nos. 4 and 5 asked her to leave the house and also threatened that they would kill and throw away her body by cutting into pieces. On the

basis of these allegations, the Respondent No. 1 has registered the First Information Report for the offences as aforesaid.

3. After completing investigation, the respondent No.1 has filed Charge-Sheet No. 130/2023, pursuant to which, a criminal case being Regular Criminal Case No. 195/2024 is registered against the applicants and accused No.1 Amol.

4. The Applicants in the present matter contend that taking the allegations in the First Information Report on their face value, no offence is made out against them under any of the provisions referred to in the First Information Report and, therefore, the criminal prosecution should be quashed.

5. The learned Senior Advocate Mr. P. R. Katneshwarkar has drawn our attention to the First Information Report to contend that the allegations in the First Information Report are general and vague in nature. He also contends that the allegations are not inspiring confidence and indicate attempt to implicate the family members of husband due to marital discord between husband and wife. He submits that the marriage between the parties was solemnized on 16/12/2011 and the First Information Report is lodged in the year 2023, after a period around 11 years of marital life. As regards the

allegations with respect to demand for dowry, he contends that it is inconceivable that after a period of around 11 years, the Respondent No. 2/Informant recollects the exact date with respect to demand for dowry. He makes the said submission with respect to the alleged incident where the Applicant No. 4 is stated to have misbehaved with the Respondent No. 2.

6. As against this, Mr. S. A. Gaikwad, the learned APP appearing for Respondent No. 1 and Mr. Gajanan Kadam, learned Counsel for the Respondent No. 2 contend that the allegations in the First Information Report are specific. The allegations, if taken on their face value, clearly make out a case for prosecution, although prosecution may or may not succeed depending upon the evidence that is brought on record. However, they contend that having regard to the narrow scope of interference under Section 482 of Indian Penal Code, the First Information Report and criminal case should not be quashed at this stage.

7. We have heard the respective Counsel for the parties as aforesaid and have perused record of the case with their able assistance. The Accused No. 1/husband is not a party before us. We are concerned with the allegations against the Applicant Nos. 1 to 4, who are arrayed as Accused Nos. 2 to 5 in the First Information Report. Perusal of the First Information Report demonstrates that the Respondent No. 2 has referred to one alleged incident

regarding the demand of dowry. The said incident is dated 05/04/2012. The First Information Report is lodged on 24/02/2023. It is inconceivable that after a period of around 11 years, the Respondent No. 2 recollects the exact date, on which the demand was made for the first time. We also find that apart from the date, other allegations in the First Information Report in this regard are completely vague and lacking in particulars. The allegations are also omnibus. The Respondent No. 2 has not assigned any individual role to any of the Applicants. Perusal of the First Information Report also indicates that the Respondent No. 2 had not revealed about the alleged demand and harassment to her parents or other family members or relatives of parental side.

8. We may also mention that although there is an allegation with respect to the demand of specific amount of Rs.10,00,000/-, the allegations with respect to the alleged harassment and ill-treatment on account of failure to meet the said demand are far too general and vague in nature. Such allegations are not sufficient to sustain prosecution under Section 498-A of IPC. The allegations in the First Information Report must be clear and specific and confidence inspire. The offence under Section 498-A is not made out merely on account of demand for dowry. The demand must be coupled with acts of harassment amounting to cruelty. The allegations pertaining to cruelty

are not specific. As regards the demand for dowry also, the Respondent No. 2 has stated that the demand was raised on 05/04/2012 and onwards. However, except for the said date, the date, time and tentative period of subsequent events of alleged cruelty are not mentioned. It is, therefore, difficult to sustain criminal prosecution on the basis of such allegations with respect to cruelty in relation to dowry.

9. The Respondent No. 2 has levelled an allegation against the Applicant No. 4 that on 10/07/2019 at about 8.00 p.m., he had held her hand and pulled her with bad intention. The place of alleged incident is not mentioned. The Respondent No. 2 also does not state as to whether the incident occurred in the house or at a place outside the house. If the incident had occurred in the house, then the Respondent No.2 should have clarified as to whether other family members including her husband were present in the house while the alleged incident had occurred. If the incident had occurred elsewhere, the Respondent No.2 ought to have mentioned the place of incident and also the reason for accompanying the Applicant No.4 at such place. She also does not allege that the Applicant No. 4 had misbehaved while they were alone. The Respondent No. 2 has mentioned a specific date and time with respect to the alleged incident, which had occurred around 4 years

and 7 months prior to the date of First Information Report, however, the other particulars are pertinently missing.

10. What is crucial to note is that, the Respondent No. 2 has mentioned two specific dates with time in the First Information Report. However, apart from this, the other allegations are general and non-specific. It appears that deliberately two dates have been mentioned in the First Information Report. If the memory of the Respondent No. 2 is that good, she should have provided details and particulars of other alleged incidents as well. We find that except for the two dates, all the allegations in the complaint are vague and general. It will also be pertinent to mention that the allegations with respect to the alleged two incidents, with respect to which the date is mentioned, are also general.

11. The Respondent No.2 has not stated in the FIR that she had appraised her parents and other family members and relatives on the parental side about the alleged ordeal suffered by her over a period of 11 years. Apart from the First Information Report, even in her statement recorded under Section 164 of the Code of Criminal Procedure, the Respondent No. 2 does not state that she had appraised her parents or any family members or relatives on parental side of the alleged cruelty. This also is unbelievable.

12. The present case appears to be another example, where the matrimonial discord has resulted in initiation of a criminal prosecution. There is immense rise in criminal prosecutions against husband and in-laws now a days. Having regard to the general tendency of estranged wives taking resort to criminal law in cases of marital disputes, the Hon'ble Supreme Court has guided all courts in the case of *Mamidi Anil Kumar Reddy V/s State of Andhra Pradesh and Another*¹ that allegations in the First Information Report pertaining to Section 498-A of IPC must be read and understood exercising due care and caution. As per the Judgment of the Hon'ble Supreme Court, prosecution under Section 498-A of IPC should not be allowed to be continued on the basis of vague and general allegations. It is held by the Hon'ble Supreme Court that parties often take legal assistance for drafting Complaints/First Information Reports in order to ensure that essential elements of an offence are enumerated so as to force the persons accused to suffer the agony of facing criminal prosecution. In the present case, we find that apart from the dates of two alleged incidents, all other allegations are vague and general in nature. Such vague and general allegations are not sufficient to sustain the criminal prosecution.

13. In view of the aforesaid reasons, we are of the considered opinion

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that the continuation of criminal prosecution against the present applicants will serve no fruitful purpose and will amount to abuse of legal process, since the allegations taken on their face value are insufficient to make out the ingredients of offence under Section 498-A and/or Section 354 of IPC and the other Sections are non-cognizable. Hence, we pass the following order.

ORDER

1. The Criminal Application is allowed.
2. The First Information Report No. 75/2023, dated 24/02/2023 registered with Police Station, Bhagyanagar, Tahsil and District Nanded for the offences punishable under Section 498-A, 354, 323, 504 and 506 read with Section 34 of Indian Penal Code, Charge-Sheet No. 130/2023, dated 23/09/2023 and Regular Criminal Case No. 195/2024 pending on the file of the learned Judicial Magistrate, First Class, Nanded are quashed against the Applicant Nos. 1 to 4 (Accused Nos. 2 to 5), *viz* – Applicant No.1 - Sau. Kamal w/o Shivram Darade; Applicant No.2 – Shivram Dagadu Darade; Applicant No.3 – Sheetal w/o Gajendra Guthe; and Applicant No.4 – Gajendra s/o Vishwanath Guthe.

(ROHIT W. JOSHI, J.)

(SMT. VIBHA KANKANWADI, J.)