



{1}

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3185 OF 2024

1. Smt. Chabutai Krishnarao Ahire,
Age: 73 years, Occ: Nil
R/o. 206-3007 Group No.8-B
Tagore Nagar, Vikhroli (E)
Dist. : Mumbai- 400083.

2. Salil Krishna Ahire,
Age: 52 years, Occ: Service,
206-3007 Group No.8-B ,
Tagore Nagar, Vikhroli (E)
Dist. : Mumbai – 400083.

... Applicants

Versus

1. State of Maharashtra
At the instance of,
Cantonment (Chawni) Police Station,
Aurangabad City.

2. Durgadevi @ Snehal Sunil Ahire
Age: 45 years, Occ: Household
R/o. At present
Bhimsandesh Society,
Plot no .113 Ganesh Nagar, Padegaon,
Chatrapti Sambaji Nagar,
Dist.Chatrapati Sambaji Nagar

... Respondents

.....

Mr. Dhairyasheel Sutar, Advocate (Through Online), h/f Mr. S.R.
Dheple, Advocate for Applicant
Mr. Abhijeet M. Phule, APP for Respondent No.1 – State
Mr. Sanket S. Palnitkar, Advocate for Respondent No.2

.....

CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.

DATE : 10 SEPTEMBER, 2025

JUDGMENT [Per Hiten S. Venegavkar]:-

1. At the outset, the learned Advocate for the applicants tendered across the Bar a copy of the death certificate dated 01.07.2025 and submitted that Applicant No.1, Smt. Chhabubai Krushnarao Ahire, expired on 23.06.2025. It is therefore submitted that the proceedings in respect of the offences alleged against her under Sections 85, 86, 115(2), 352, 351(2), 351(3) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as “BNS”), stand abated. The death certificate dated 01.07.2025 is taken on record and marked as Exhibit ‘X’ for the purposes of identification

2. Present application thus stands abated in respect of applicant No.1 Chhabubai Krishnarao Ahire. Application to proceed against applicant No.2 Salil Krishna Ahire.

3. Rule. Rule made returnable forthwith with the consent of parties and the matter is taken up for final disposal at admission stage itself.

4. The present application is filed under section 528 Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as “BNSS”), seeking quashing of first information report (FIR) bearing Crime No.342

{3}

of 2024 dated 03.07. 2024 registered with Chawni Police Station, Chh Sambhajinagar for offences punishable under Sections 85, 86, 115(2), 352, 351(2), 351(3), 3(5) of BNS 2023.

Facts of the case can be summarised as under:-

5. Respondent No.2, who is the original informant, namely Sau. Durgadevi @ Snehal Sunil Ahire, approached Chhavani Police Station, Chhatrapati Sambhajinagar, on 03.07.2024 had lodged a complaint stating that her marriage with one Sunil Krushnarao Ahire was solemnized on 05.11.2006 as per the prevailing customs and rituals. In the said marriage and also during engagement, the informant alleged that, her parents have gifted certain gold ornaments to the husband and in-laws amounting to One Lakh Rupees along with certain articles for domestic use. Initially for three months, the informant was treated properly, but thereafter, she has alleged that, her mother-in-law (deceased applicant No.1) husband and brother-in-law i.e. present applicant No.2 and one Sanjeev Ahire had started torturing her by demanding household furniture prepared of teakwood. The informant refused to satisfy the said demand as her parents are poor and they are not in a financial position to satisfy the demand. She alleged that, due to this she was subjected to continuous torture and harassment at the hands of the accused persons. She also alleged that her in-laws used to

{4}

exaggerate certain situations in front of her husband due to which the husband used to physically and verbally abuse and assaulted her by stick, belt, kicks and blows. On 07.08.2009, she delivered a baby boy. She had complained about the physical and mental harassment to her parents and brother and in spite of them requesting the accused persons to treat the informant properly, there was absolutely no improvement. She further alleged that she came to know that her husband was previously married and when confronted, he started harassing her more. In her information, she has specifically stated that she was staying separately from her husband since 2015. It is alleged that the accused have threaten that the informant's parents should purchase three acres of land in the name of informant and one flat, bungalow and car in their name as dowry, till then they will not accept the informant and permit her to return to her matrimonial house. There is also an allegation that the husband used to remain naked in the house, and when the informant tried to convince him to wear clothes as they have a 15 years old son in the house, the husband threatened that he would commit suicide by writing suicide note naming the informant's mother, brother, and informant herself. Accordingly, on 07.05.2024, the informant's brother brought her back to the parental house and since then till the date of complaint, the informant has been staying away from the matrimonial house and from her husband. There was also an

{5}

allegation that till the demand of dowry is not satisfied, her husband and other accused will not accept her, and even if they accept her, they will kill the informant. It is further alleged that although the informant is presently residing at her parental home, her husband continues to visit the said house, subjecting her to verbal abuses and threatening to kill her. The informant's complaint was registered by the police vide C.R. No.342 of 2024 for offences punishable under Sections 85, 86, 115(2), 352, 351(2), 351(3), 3(5) of BNS.

6. We have heard advocate for the applicants at length. He argued there by refuting the allegations made in the FIR in toto. He took us through the FIR ascertaining that the informant and her husband have been living separately in Mumbai since their marriage and further submitted that the present applicant has never resided with them. It is pointed out that the FIR is lodged in the year 2025 and there is alleged separation even as per the FIR since 2015. Thus, according to the learned Advocate for the applicants, there is an inordinate and unexplained delay of almost nine years in lodging the complaint. It is further argued that the allegations made in the FIR are concocted and have been raised nearly eighteen years after the marriage. According to him, the allegations are vague and omnibus in nature, with no specific overt act attributed to either of the applicants. According to him, as the

{6}

allegations against the surviving applicant do not constitute any essential element or ingredient of the offences attributed in the FIR, this is the fit case where the Court should exercise its inherent powers under Section 528 of the BNSS.

7. Countering the arguments of the applicant's Advocate, the learned APP representing the State and learned Advocate for respondent no. 2 submitted that reading of an FIR clearly makes out allegations against the applicants showing that the Informant was subjected to harassment continuously and consistently. The nature of allegations made is *prima facie* sufficient to come to a conclusion that the alleged offence is made out. Investigation is still in progress and the Investigating Officer has not yet come to any definite conclusion about the role of the applicant. According to them, the petition is premature and it will not be fit to quash the FIR.

8. Upon considering the arguments advanced by all the parties, and in view of the death of applicant No. 1, we have to consider the present application only in respect of applicant No. 2, Salil Krushna Ahire and decide the question whether the FIR and the proceedings therefrom are liable to be quashed in exercise of this Court's inherent powers. The contours of such jurisdiction are well delineated.

9. In the case of *State of Haryana and others vs. Bhajanlal and others*, reported in 1992 Supplementary (1) SCC 335, the Hon'ble Supreme Court laid down illustrative categories wherein the High Court may exercise its powers to quash the proceedings so as to prevent abuse of the process of law or to secure the ends of justice. These include cases where the allegations, even if taken at their face value and accepted in their entirety, do not constitute the alleged offence, or where the allegations are so absurd and inherently improbable that no prudent person could reach a just conclusion that there exists sufficient ground for proceeding.

10. Examining the present case in the light of the aforesaid principles, and upon considering the FIR as well as the overall prosecution story narrated by the informant, we are of the considered view that the essential ingredients of the offences alleged are not, prima facie, disclosed as against Applicant No.2. The gravamen of the allegations pertains to the acts of cruelty, dowry demands, and threats said to have been made by the husband. The references to the mother-in-law (deceased applicant No.1) and brother-in-law (present applicant No.2) are of a general nature. There is no attribution of any specific overt act, nor any reference to date, time, or place, in respect of applicant No.2 is concerned. The informant herself has asserted in the

FIR that since 2015 she and her husband were residing separately in the BEST quarters at Ghatkopar, Mumbai, whereas the present applicants were residing at Vikhroli. This admitted separate residence for nearly 9 years prior to the FIR, without any contemporaneous complaint, renders allegation against the present applicant inherently improper.

11. The law on this point is well settled in the case of ***K. Subbarao v. State of Telangana***, (2018) 14 SCC 452, wherein the Hon'ble Apex Court has held as under:

“6. *Criminal proceedings are not normally interdicted by us at the interlocutory stage unless there is an abuse of process of a Court. This Court, at the same time, does not hesitate to interfere to secure the ends of justice. See State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335. The Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out. See Kans Raj v. State of Punjab (2000) 5 SCC 207 and Kailash Chandra Agrawal v. State of U.P. (2014) 16 SCC 551.”*

12. Similarly, in the case of ***Geeta Mehrotra v. State of Uttar Pradesh***, (2012) 10 SCC 741, the Hon'ble Supreme Court observed that, in the absence of specific allegations of active participation in acts of cruelty, distant relatives should not be made to suffer the agony of a criminal trial on the basis of vague and general statements. The said principle

has been reiterated in ***Kahkashan Kausar and Ors. Vs. State of Bihar and Ors. (2022) 6 SCC 599***, wherein it was held that the tendency to implicate all family members without specific accusations must be nipped in the bud.

13. One more aspect which supports our analysis in the present matter is the delay in lodging the complaint. According to us, this is a significant circumstance. The alleged acts of harassment are stated to have occurred over a period beginning soon after the marriage in 2006 and continuing up to 2015, when the informant began residing separately. Yet, the FIR came to be lodged only on 03.07.2024. No plausible explanation has been offered for this extraordinary delay of nearly a decade. We are cautious of the fact that delay in lodging complaints in matrimonial offences may not, by itself, be fatal where harassment is shown to be continuous, as observed by the Hon'ble Supreme Court in ***State of Andhra Pradesh Vs. M. Madhusudan Rao***, (2008) 15 SCC 582.

“30. Time and again, the object and importance of prompt lodging of the First Information Report has been highlighted. Delay in lodging the First Information Report, more often than not, results in embellishment and exaggeration, which is a creature of an afterthought. A delayed report not only gets bereft of the advantage of spontaneity, the danger of the introduction of coloured version, exaggerated account of the incident or a concocted story as a result of deliberations and

{10}

consultations, also creeps in, casting a serious doubt on its veracity. Therefore, it is essential that the delay in lodging the report should be satisfactorily explained.

31. In the present case, as noted supra, First Information Report in regard to the alleged occurrence on 19th April, 1996 was lodged on 22nd May, 1996. Admittedly after her discharge from the hospital on 22nd April, 1996, the complainant went to her parents' house and resided there. In her testimony, the complainant has deposed that since no one from the family of the accused came to enquire about her welfare, she decided to lodge the First Information Report. No explanation worth the name for delay in filing the complaint with the police has come on record. We are of the opinion that this circumstance raises considerable doubt regarding the genuineness of the complaint and the veracity of the evidence of the complainant (PW-1) and her father (PW-3), rendering it unsafe to base the conviction of the respondent upon it. Resultantly, when the substratum of the evidence given by the complainant (PW-1) is found to be unreliable, the prosecution case has to be rejected in its entirety”

14. In the present case, the admitted separate residence of the informant with her husband since 2015 severs the thread of continuity, and the belated allegations thereafter against applicant No.2 are unsustainable.

15. The cause title and the pleadings in the present criminal application show that applicant No.2 is an Income Tax Officer and is living with his own family at Vikhroli, Mumbai, and therefore, there is

no question that he will be in daily contact with the informant. The FIR does not disclose that the applicants ever shared a common household with the informant or that they exercised any influence over the informant's marital life. As held in ***Preeti Gupta v. State of Jharkhand***, (2010) 7 SCC 667, the Courts must be circumspect in permitting prosecution of relatives who reside separately and against whom no specific role has been attributed. The Hon'ble Apex Court in *Preeti Gupta* (supra) has held as under:

“35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of

{12}

amicable settlement altogether. The process of suffering is extremely long and painful.

37. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law.”

16. In these circumstances, to compel Applicant No.2 to undergo the ordeal of a criminal trial on the basis of such vague and stale allegations would amount to a manifest abuse of the process of law. Therefore, this is a fit case to exercise our inherent jurisdiction under Section 528 of the BNS, so as to secure the ends of justice and to prevent abuse of the process of law. In the result, the following order is passed:

ORDER

[i] Rule is made absolute.

- [i] Criminal Application stands allowed.
- [ii] The First Information Report vide Crime No. C.R. No.342/20:24 registered on 03.07.2024 with Chawni Police Station, Chhatrapati Sambhaji Nagar for offences punishable under Sections 85, 86, 115(2), 352, 351(2), 351(3), 3(5) of BNS, stands quashed and set aside as against applicant No. 2 i.e. - Salil Krishna Ahire.

[HITEN S. VENEGAVKAR, J.]

[SMT. VIBHA KANKANWADI, J.]