



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO.3331 OF 2023

1. Tushar Bhavsingh Maher,
Age : 36 years, Occu: School Teacher,
2. Bhavsingh Kanhiram Maher,
Age 67 years, Occu : Farmer,
3. Mirabai Bavsingh Maher,
Age : 63 years, Occu – Housewife,
4. Mahendrasingh Bhavsingh Maher,
Age : 39 years, Occu- Farmer,
- All r/o: At Takvade, Post. Wade,
Tq. Chalisgaon, Dist. Jalgaon,
- 5 Kavita Shamsingh Gothwal,
Age : 37 years, Occu- Tutor
6. Shamsingh Narayansingh Gothwal
Age : 50 years, Occu : Legal Practitioner,

Both R/o: Plot No.28(b), Sy. No.7,
Vidyut Nagar Housing Society,
Near Chinar Garden, Jaising Pura,
Padegaon, Aurangabad

...Applicants

-VERSUS-

1. The State of Maharashtra
Through Pachora Police Station,
Tq. Pachora, Dist. Jalgaon.
2. Dipali Tushar Maher,
Age : 30 years, Occu : Housewife,
R/o. Sai Park, Bhadgaon Road,
Pachora, Dist. Jalgaon

...RESPONDENTS

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Advocate for Applicants : Mr. D. S. Patil
A.P.P. for Respondent No.1/State : Mr. A. M. Phule
Advocate for Respondent No.2- Mr. Narayan Chavan h/f. Mr. H. P.
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CORAM : SMT. VIBHA KANKANWADI AND
ROHIT W. JOSHI, JJ.
DATED : 9th JANUARY, 2025

JUDGMENT (PER ROHIT W. JOSHI, J.) :

1. The present application is filed under Section 482 of Code of Criminal Procedure in order to challenge FIR No.279/2023 dated 27.07.2023 registered with Pachora Police Station, District Jalgaon for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code, 1860.

2. The Petition came to be amended in order to challenge Regular Criminal Case No.210 of 2023 which is pending on the file of the learned Judicial Magistrate First Class, Pachora.

3. Respondent No.2 - informant is related to the applicants as under:-

Applicant No.1 – Husband

Applicant No.2 – Father-in-law

Applicant No.3 – Mother-in-law

Applicant No.4 – Brother-in-law

Applicant No.5 – Sister-in-law (Married)

Applicant No.6 – Husband of Sister-in-law

4. The marriage between applicant No.1 and respondent No.2 was solemnized on 20.12.2010. The couple is blessed with two children who were born somewhere in the years 2011 and 2016. Applicant No.1-Husband is employed as a teacher in Zilla Parishad School.

5. Respondent No.2 has lodged FIR levelling allegations that applicant No.1 is addicted to liquor and he used to beat her intermittently under influence of liquor, shortly after a few days of marriage. She alleges that the in-laws used to illtreat and insult her since she was not adequately educated and qualified, according to them. It is alleged that they had demanded a sum of Rs.15 lakhs from her parents for the purpose of purchasing a plot. As against applicant No.1-husband she states that she was living with him at the places where he was posted for the purpose of employment from time to time. She alleges that he used to intermittently beat her and also the children under influence of liquor. As regards other applicants, the omnibus allegations are made that they had demanded a sum or Rs.15 lakhs

along with applicant No.1 and that they used to abuse and illtreat her.

6. Shri. D. S. Patil, learned Counsel appearing for the applicants submits that the marriage between applicant No.1 and respondent No.2 was solemnized in the year 2010. The couple was blessed with two children, born in the year 2011 and 2016. Applicant No.1 is a teacher in Zilla Parishad School. He states that the nuclear family of applicant No.1 and respondent No.2 never resided with applicant Nos.2 to 4, since, applicant No.1 was posted at difference places from time to time during the course of his service. As regards applicant No.5, she is married Sister-in-law and applicant No.6 is her husband. Applicant Nos.5 and 6 never resided with applicant No.1 and respondent No.2. He states that the entire FIR is tainted and falsehood. He pointed out that respondent No.2 had left the matrimonial house on 06.02.2023 on account of which applicant No.1 was constrained to file a missing complaint at Pachora Police Station. The police authorities had conducted investigation and during the course of investigation, statement of respondent No.2 was recorded on 22.03.2023. In her statement to the police authorities, respondent No.2 has admitted that she had left the matrimonial home on 06.02.2023 and after a few months thereafter, on 27.07.2023, she has lodged the impugned FIR.

7. Learned Counsel for the applicants submits that the allegations are vague and lacking in particulars. As regards applicant Nos.2 to 6 he states that the allegations are also omnibus apart from being vague and general in nature.

8. Per contra Shri. A. M. Phule, learned A.P.P. and Mr. Chavan, learned Counsel for Respondent No.2 submits that specific and direct allegations have been levelled with respect of demand for dowry. They point out that allegations regarding demand of dowry Rs.15 lakhs are levelled by respondent No.2 against all the applicants. As regards applicant no.1 they further pointed out that there are allegations against him with respect to frequent incidents of beating under influence of liquor. With respect to the incident dated 06.02.2023 they submit that respondent No.2 was fed up with the harassment meted out by applicant No.1 and was therefore forced to leave the house.

9. Having heard the respective submissions of the Counsel and on perusal of record with able assistance of learned Counsel, we find that there are no allegations worth mentioning against applicant Nos.5 and 6, the married sister-in-law and her husband. It is merely stated that applicant Nos.5 and 6 used to visit the house intermittently and used to abuse respondent No.2 unnecessarily. However, particulars in this regard

are completely missing. Leave aside the date and time, tentative period of the alleged illtreatment is also not mentioned. There is absolutely no material against applicant Nos.5 and 6. We are of the considered opinion that they have been unnecessarily implicated in the matter.

10. As regards the applicant Nos.2 to 4, i.e., parents-in-law and brother-in-law, it may be stated that applicant No.1 being a Zilla Parishad School Teacher was posted at different places during the course of his employment. It is admitted that respondent No.2 was staying with her children at the places where applicant No.1 was posted. The periods during which applicant No.1 and his nuclear family have resided together with applicant Nos.2 to 4 is not clearly specified. It is apparent from the FIR that they were not residing together in as much as the applicant Nos.2 to 4 were not residing with applicant No.1 at various places where he was transferred and posted from time to time. Allegation is levelled that applicant Nos.2 to 4 had along with applicant No.1 made demand of dowry of Rs.15 lakhs for the purpose of purchasing plot and further that they used to abuse and illtreat her on the ground that she was not adequately qualified. The allegations are way to general and vague. Just as in the case of applicant Nos.5 and 6, respondent No.2 is also not able to provide tentative periods of alleged harassment by applicant Nos.2 to 4. This needs to be viewed in

the backdrop that the marriage was solemnized in the year 2010 and the FIR is lodged 13 years thereafter in the year 2023. It appears that the relations between applicant No.1 and respondent No.2 strained, period of time as a consequence of which the parents and brother so also married sister and her husband have been implicated in the matter. The material on record even if accepted on its face value is not sufficient to sustain prosecution against applicant Nos.2 to 4.

11. As regards applicant No.1, i.e., the husband, respondent No.2 has alleged that he was addicted to liquor and under influence of liquor he used to beat her as well as their children. She alleges that such incidents have occurred on several occasions. She alleges that her husband had made a demand of Rs.15 lakhs for purchasing plot from time to time. She refers to an incident that had occurred on 15.08.2016 when the applicant No.1- husband again made demand of Rs.15 lakhs under influence of liquor and had beaten respondent No.2.

12. Apart from the alleged incident dated 15.08.2016, particulars with respect to tentative period of other incident of harassment are not mentioned.

13. The allegations against the husband / applicant No.1 and the

other applicants also need to be viewed in the light of the other circumstances of the case. The marriage of respondent No.2 and applicant No.1 was solemnized in the year 2010. The FIR is lodged after a period of around 13 years. Respondent No.2 had left the matrimonial house on 06.02.2023. Applicant No.1 had lodged a missing report in that regard. The statement of respondent No.2 was recorded after she was found by the police in which she has stated that she had left the house due to constant illtreatment by the husband including acts of incident of beating under the influence of liquor. She has stated in the statement that applicant No.1 also doubted her character. However, in the statement dated 22.03.2023 she has not levelled allegations regarding demand of dowry by the applicants. The FIR is lodged on 27.07.2023 that is after a short period of around four months from the date of said statement. The statements of father, brother, mother, cousin were also recorded on 22.03.2023 after respondent No.2 was found. In the said statement also there is no allegation with respect to demand of dowry. It is therefore apparent that the allegations with respect to demand for dowry have been levelled only in the light of matrimonial discord. The allegations levelled by respondent No.2 regarding demand for dowry do not inspire confidence. We say so not only on the ground that the allegation is not appearing in the statements of respondent No.2 and her family

members recorded on 22.03.2023 but also in the light of other attending circumstances, i.e., the FIR being lodged after a period of 13 years from the date of marriage, lack of particulars with respect to alleged demand, except for one date, i.e., 15.08.2016 which around seven years prior to the date of FIR and deliberate over implication in involving the parents-in-law, brother-in-law, married sister-in-law and her husband in the matter coupled with the general tenor of the FIR.

14. In view of the aforesaid, the allegations regarding demand for dowry are not *prima facie* acceptable. They are improbable and not confidence inspiring in nature.

15. In the light of above, we are of the considered opinion that the contents of FIR and other material on record is not adequate to make out a *prima facie* case against the applicants for the offence punishable under Section 498-A of the IPC. The other Sections are non-cognizable. In such circumstances, we are of the opinion that it is necessary to preserve the ends of justice to quash the FIR and resultant criminal case against the applicants. In the result, we pass the following order :-

ORDER

(i) The application is allowed.

(ii) FIR No.279/2023 dated 27.07.2023 registered by Pachora Police Station, Tq. Pachora, Dist. Jalgaon for the offence punishable under Sections. 323, 498-A, 504, 506 read with Section 34 of the IPC and Regular Criminal Case No.210 of 2023 are quashed against applicant No.1 - Tushar Bhavsingh Maher, Applicant No.2 - Bhavsingh Kanhiram Maher, applicant No.3 - Mirabai Bavsingh Maher, applicant No.4 - Mahendrasingh Bhavsingh Maher, applicant No. 5 - Kavita Shamsingh Gothwal and applicant No.6 - Shamsingh Narayansingh Gothwal.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

A.G.Narwade