



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 5960 OF 2024

Mangesh Rameshchandra Dubey & ors. ..Petitioners
VS.

The State of Maharashtra & anr. ..Respondents

Mr. Sachindra Tiwari a/w. Mrs. Asha A. Pawar, Advocates for the
Petitioners.

Mr. S. V. Gavand, Addl. P.P. for State.

CORAM: RAVINDRA V. GHUGE AND
RAJESH S. PATIL, JJ.

RESERVED ON : 8th JANUARY, 2025

PRONOUNCED ON : 15th JANUARY, 2025

JUDGMENT (PER - RAJESH S.PATIL, J.) :-

1. The present Writ Petition has been filed under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, 1973, by all the original accused persons against whom offence vide Crime No. 0400 of 2022 has been registered at Yerwada Police Station, Pune City at the behest of Respondent No.2 for the offence punishable under Sections 498-A, 323, 504 read with 34 of the Indian Penal Code.

2. It has been vehemently submitted on behalf of the

Petitioners that marriage between Petitioner No.1 and Respondent No.2 was solemnized on 18th May, 2019, at Uttar Pradesh, it was arranged marriage. There is no issue born out of the said wedlock. After the marriage, Petitioner No.1 with Respondent No.2 shifted to Vasai and they started residing in a flat on rental basis. Subsequently, as the area of the said flat was comparatively smaller, Petitioner No. 2, who is the father of Petitioner No. 1, took a two BHK flat on a rental basis at Vasai, with a sole intention that Petitioner No. 1 and Respondent No. 2 should live comfortably. Petitioner Nos. 4 and 5 are the married sisters-in-law of Respondent No. 2, and they are residing in their respective matrimonial homes. The Petitioners belong to a simple family, whereas Respondent No. 2's family is very rich and affluent. After the marriage of Petitioner No. 1 to Respondent No. 2, the Petitioners became aware of Respondent No. 2's mental condition, including her lack of interest and failure to perform household chores, as well as her struggles with mental disabilities, short-term memory issues, and schizophrenia. Shocked by this, the Petitioners informed Respondent No. 2's family. However, the news fell on deaf ears, and Respondent No. 2's family was unwilling to resolve the issue.

3. On 20th February, 2022, Petitioner Nos. 1, 2 and 3 were required to travel to their native place in Uttar Pradesh. Accordingly, they decided that Respondent No. 2 should accompany them. However, Respondent No. 2 informed them that she was not comfortable to travel and declined to go to Uttar Pradesh. She then called her brothers and asked them to come to her matrimonial home as she desired to go to her parental home. As a result, on 20th February, 2022, the brothers of Respondent No. 2 visited Petitioner No. 1's house and took her to her parental home. After Petitioner Nos.1, 2 and 3 returned back to Mumbai from Uttar Pradesh, Petitioner No.1 approached Respondent No.2 and asked her to come back to her matrimonial home, however, Respondent No.2 refused to come back to her matrimonial home on one pretext or another.

4. As there was no response from Respondent No. 2, Petitioner No. 1, through his advocate's notice dated 20th July, 2022, called upon Respondent No. 2 to return to her matrimonial home. In reply, Respondent No. 2 expressed her unwillingness to return and cohabit with Petitioner No. 1. Thereafter, Respondent No. 2 and her family members began threatening Petitioner No. 1 with telephone calls. As there was no positive progress, Petitioner No. 1 filed a Petition

seeking the nullity of marriage before the Court of Senior Division, Vasai. In retaliation, Respondent No. 2 filed a complaint, which resulted into filing of First Information Report (FIR) bearing No. 0400 of 2022 on false grounds. In order to resolve the issues, Petitioner No.1, called up Respondent No.2. However, Respondent No.2 did not respond positively and replied that as the legal proceedings have already commenced, the issues would be resolved in the Court of law. As the Petitioners received the notice from the Yerwada Police Station, they had no option but to approach the Sessions Court at Pune seeking anticipatory bail. On 17th October, 2022, the Petitioners were granted anticipatory bail by the Court of Sessions at Pune.

5. Petitioner Nos. 4 and 5 are the married sister-in-laws of Respondent No. 2. In order to harass and pressurize the family members of Petitioner No. 1, Respondent No. 2 has involved them in her matrimonial dispute. Filing of FIR, will have a huge problem in the matrimonial life of Petitioner Nos.4 and 5 (sister-in-laws of Respondent No.2). The allegations made in the police complaint is of the period of May, 2021 against Petitioner Nos.4 and 5, which was lockdown period due to Pandemic. During lockdown the

married sister-in-laws of Respondent No.2 were not able to step outside their homes, hence they had no role to play in the matrimonial life of Respondent No.2 with Petitioner No.1. The allegations made about the demand made by the Petitioners is completely false and made with a malafide intention in order to harass the Petitioners. Hence, this Court in its inherent jurisdiction under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure should quash the FIR registered under Sections 498-A, 323, 504 read with 34 of the Indian Penal Code, along with charge-sheet.

6. *Per contra*, the learned Additional Public Prosecutor strongly opposed the Writ Petition and submitted that the perusal of the entire FIR and charge-sheet would show that there is ample evidence against all the Petitioners to convict them under the offence under Sections 498-A, 323, 504 read with 34 of the Indian Penal Code. It is further submitted that once charge-sheet is filed, this Court should not entertain the present Writ Petition. The statement recorded of the witnesses and the fact that has come on record clearly that the offence is made out against all the Petitioners. The Petitioners/accused persons needs to face trial and the FIR and

charge-sheet cannot be quashed, at this stage.

7. For quashing criminal proceedings under Section 482 of Criminal Procedure Code, and under Article 226 of the Constitution, it has to be seen whether the allegations in the complaint and F.I.R. *prima facie* indicate that there are serious allegations against the accused persons of having committed an offence.

8. The present Writ Petition has been filed by all the accused persons, who are husband, father-in-law, mother-in-law and sister-in-laws, respectively of Respondent No.2. It is the case of the prosecution that Respondent No.2 got married with Petitioner No.1 on 18th May, 2019. Before the marriage, Petitioner No.2 (father-in-law) demanded a sum of Rs.10 lakhs from the father of Respondent No.2. The father of Respondent No.2 agreed to pay dowry of Rs.9 lakhs to Petitioner Nos.1 and 2. Accordingly, the marriage was fixed and marriage ceremony was performed on 18th May, 2019. During the said marriage ceremony, a sum of Rs.7 lakhs was transferred via RTGS/NEFT from the Bank account of the father of Respondent No.2 to the Bank account of Petitioner Nos.1 and 2. The Bank

Statement to that effect is enclosed to the charge-sheet and Rs.2 lakhs worth ornaments was given in the marriage and the entire expenses of the marriage was borne by the father of Respondent No.2. It is further mentioned in the FIR that after few days of marriage, there was further demand by Petitioner No.3 (mother-in-law) for fridge, T.V. etc. So also, the Petitioners taunted Respondent No.2 as she was less educated in comparison to Petitioner No.1, and that the parents of Respondent No.2 had given less amount in dowry in the marriage. It is further recorded in FIR that as Respondent No.2 tried to clarify about the expenses made by her father during marriage, Petitioner No.1 assaulted Respondent No.2 and Petitioner No.3 abused Respondent No.2. So also, Petitioner No.1 asked for a further sum of Rs.10 lakhs from the father of Respondent No.2 in order to purchase a flat at Vasai.

9. It is further recorded in the complaint that in May, 2022, Petitioner Nos. 4 and 5 (sister-in-laws of Respondent No.2) visited the house of Petitioner Nos. 1, 2 and 3 for a holiday, accompanied by their children. During this period, Respondent No. 2 was constantly taunted on the grounds that she did not know how to cook. Additionally, Respondent No. 2 was purposely asked to

store water in buckets, a task that was difficult for her, especially during her pregnancy. Despite this, she was forced to lift the buckets by Petitioner Nos. 4 and 5. Petitioner Nos. 4 and 5 used to abuse Respondent No. 2, and when she attempted to clarify her position, Petitioner No. 5 assaulted her. Due to being forced to lift water buckets during her pregnancy, Respondent No. 2 suffered a miscarriage for the third time. On 19th February, 2022, Petitioner No. 3 (mother-in-law of Respondent No. 2), under the pretext of visiting her native place in Uttar Pradesh, called the father of Respondent No. 2 and asked him to take Respondent No. 2 to her parental home, as Petitioner No. 3 was going to her native place. The family of Respondent No. 2 believed the words of Petitioner No. 3 (mother-in-law of Respondent No. 2) and, accordingly, took Respondent No. 2 to her parental home. After few days, when Respondent No.2 called up Petitioner No.1 and told that she wanted to return back to her matrimonial home, but Petitioner No.1 refused to take her back, instead blocked the telephone number of Respondent No.2. So also, all calls made by Respondent No.2 to her mother-in-law (Petitioner No.3), failed to have any positive response as she replied that she was still in native place. Respondent No.2 lost all hopes and approached police for help. A complaint was

noted by the Yerwada Police Station and accordingly, the FIR has been lodged. The FIR in detail records the specific allegations made by Respondent No.2, against all the Petitioners.

10. The police has recorded the statement of the witnesses and has accordingly filed the charge-sheet. A copy of the charge-sheet with the statements is annexed to the present proceedings. In our view, the parties are required to face the trial.

11. The Supreme Court in the judgments of (i) *State of Haryana & Ors. vs. Ch. Bhajan Lal & Ors.*, AIR 1992 SC 604, (ii) *Rajeev Kourav vs. Baisahab & others*, (2020) 3 SCC 317 and (iii) *Kaptan Singh vs. State of Uttar Pradesh and others*, (2021) 9 SCC 35, has held that exercise of powers under section 482 of the Code of Criminal Procedure to quash the proceedings is an exception and not a rule. Appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 of the Code of Criminal Procedure.

12. In the recently reported judgment of *CBI vs. Aryan Singh*, AIR 2023 SC 1987, the Supreme Court has held that while examining the

power under Section 482, the High Court should not conduct a mini trial. Similarly in the judgment of *State of Odisha vs. Pratima Mohanty and others, (2022) 16 SCC 703*, the Supreme Court has held that once the charge-sheet is filed, the High Court should be reluctant to quash the complaint. Paragraph no.8.2 of the judgment reads as under :

8.2 It is trite that the power of quashing should be exercised sparingly and with circumspection and in rare cases. As per the settled proposition of law while examining an FIR/complaint quashing of which is sought, the court cannot embark upon any enquiry as to the reliability or genuineness of allegations made in the FIR/complaint. Quashing of a complaint/FIR should be an exception rather than any ordinary rule. Normally the criminal proceedings should not be quashed in exercise of powers under section 482 CrPC when after a thorough investigation the charge-sheet has been filed. At the stage of discharge and/or considering the application under section 482 CrPC the courts are not required to go into the merits of the allegations and/or evidence in detail as if conducting the mini-trial. As held by this court the powers under section 482 CrPC are very wide, but conferment of wide power requires the court to be more cautious. It casts all onerous and more diligent duty on the Court.

[Emphasis supplied]

13. In the present proceedings, the charge-sheet has been already filed on 27th February, 2023 and the police have recorded the statement of 8 witnesses, copies of which are enclosed with the

charge-sheet and forms part of the records of the present proceedings.

14. After considering the contents of FIR and the various documents on record attached to the FIR, and the charge-sheet, we are satisfied that it constitutes the ingredients of the offences alleged. Taking into account the law as laid down by the Supreme Court in the judgments referred above, we find that there is no merit in the present Writ Petition and the same deserves to be dismissed. Hence, the following order :-

ORDER

- (i) **The Writ Petition stands dismissed.**
- (ii) Needless to state, any observations made herein are only for the purposes of deciding the Writ Petition only and would have no bearing on the final adjudication of the proceedings.

[RAJESH S. PATIL, J.]

[RAVINDRA V. GHUGE, J.]