



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION [APL] NO. 724 OF 2021

Kailash s/o Bhikuji Daberao
Aged about 47 years,
Occupation-Service,
R/o. Police Quarters,
Vivekanand Chowk,
Tah. Latur, District-Latur.
Present Address : Fatima Nagar,
Parmar Nagar, Phase 4,
N Building, Pune.

Applicant

.. Versus ..

1. State of Maharashtra,
Through Police Station Officer,
Balapur, District-Akola.
2. Sau. Amruta w/o Amol Daberao
Aged 24 years, Occ : Household,
R/o. House No.L-10, MHADA Colony,
Kaulkhed, Akola, Tahsil and District-
Akola.

.. Non-Applicants

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Shri H.T. Bewali, Advocate for Applicant.
Shri G.S. Umale, APP for Non-Applicant No.1/State.
None for Non-Applicant No.2 though served.

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CORAM : ANIL S. KILOR AND
PRAVIN S. PATIL, JJ.
DATED : 23rd APRIL, 2025.

JUDGMENT [PER : Pravin S. Patil, J.]

1. **Rule.** Rule made returnable forthwith. By consent of the learned Counsel for parties, the matter is taken up for final disposal.

2. By this application, the applicant is seeking to quash and set aside the Chargesheet dated 17.08.2020 registered with Police Station, Balapur, District-Akola, vide Crime No.39/2020 for offences punishable under Sections 498-A, 354, 323, 504, 506 r/w 34 of the Indian Penal Code.

3. In short the case of prosecution is that, non-applicant no.2 on 26.01.2020 lodged police report alleging that she was subjected to cruelty at the instance of applicant, who is father-in-law, on count of dowry. She further alleged that applicant has sexual intent against her and tried to outrage her modesty. She was abused by applicant when she was taken for abortion of child. As such on these allegations offence came to be registered against applicant.

4. The applicant, by way of present application, states that the allegations made against him are false. Before this,

non-applicant no.2 has lodged complaint of somewhat same nature but she was not successful in the same and, therefore, after giving a mindful thought and with an intent to implicate the applicant in web of crime made substantial improvement in her police report dated 26.01.2020. He further stated that on the basis of allegations made against him, offence under Sections 498-A, 354, 504, 506 of the Indian Penal Code is not made out against him. It is the submission of the applicant that on frivolous complaint, offence is registered against him without conducting preliminary enquiry. Hence, offence registered against him is liable to be quashed and set aside.

5. Learned APP strongly opposed the application by stating that the allegations made in the complaint are specific and considering the averment of demand of dowry and harassment to non-applicant no.2 at the instance of applicant, offence is made out and, therefore, at this stage, interference of this court is uncalled for.

6. From the record, it is seen that non-applicant no.2 served long back in the year 2022 but she chose neither to appear in the matter nor file affidavit to contravene the

submission made by the present applicant.

7. We have considered the rival submissions made by both the parties and also perused the record as well as the chargesheet. From the record, it is clear that the marriage of non-applicant no.2 was solemnized on 21.05.2017 and thereafter, on 03.05.2019 she left matrimonial house and started residing with her husband. It is clear from the chargesheet that the non-applicant no.2 initially on 04.07.2019 and 13.08.2019 lodged police complaints against the family members of the applicant. In those complaints, there is no whisper or allegation against the present applicant that on 08.03.2019, applicant entered into the bathroom when she was taking bath and tried to outrage her modesty. The entire allegation in her earlier complaints are regarding demand of dowry. Hence, it can be said that the present complaint came to be lodged with an improved and serious allegation so as to implicate applicant in the alleged offence.

8. From the FIR and chargesheet in respect of demand of dowry, vague and omnibus allegations are being made by the non-applicant no.2. It is not mentioned that because the

demand was not satisfied and in what manner, she was subjected to harassment at the instance of the applicant to support her case. She refers to incident dated 02.05.2019.

9. As per allegation the family members of the applicant had taken her for abortion, stating that they want to perform the second marriage of her husband. On that day, it is alleged that she was abused in filthy language and threatened to kill. However, in support of her allegations, no material is placed on record. There is also no material to show that whether her consent for abortion was taken or not and if it was taken then the name of Doctor where she was taken for abortion etc. As such, allegation levelled by non-applicant no.2 lacks necessary details and precise submission in respect of demand of dowry.

10. Admittedly, non-applicant no.2, due to harassment, left the company of husband and family members since 03.05.2019. Whereas, the police complaint against applicant was lodged on 26.01.2020. As such, there is a delay of eight months. But no explanation is offered for such delay. Hence, in absence of explanation of delay, the allegations referred

hereinabove do not found trustworthy.

11. Once we found that the allegations levelled against the applicant are after thought and made with an intent to falsely implicate him in a criminal offence, we are of the opinion that no offence attracts as alleged. Hence, we proceed to pass the following order :

O R D E R

(i) Criminal Application is allowed.

(ii) The Chargesheet dated 17.08.2020 registered with Police Station, Balapur, District-Akola arising out of Crime No.39/2020 for offences punishable under Sections 498-A, 354, 323, 504, 506 r/w 34 of the Indian Penal Code, is hereby quashed and set aside.

12. Rule is made absolute in the above terms.

(Pravin S. Patil, J.)

(Anil S. Kilor, J.)