



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

Criminal Application (APL) No. 1540 of 2024

1. Shaesta Firoz W/o Safdar Ejaj Khan,
Aged about 45 years, Occ. Private Job,
R/o Flat No. 601, Ayachi Apartment, Sector-
45, Gurgaon (Haryana)
2. Fahad Ahmad Khan S/o Firoz Ahmad Khan
Aged about 37 years, Occ. Private Job,
R/o Flat N-1101, Marvel Fria, Nagar Road,
Pune-412207
3. Nadra Firoz W/o Firoz Ahmad Khan
Aged about 71 years, Occ. Household
R/o 46-C, Ground Floor, Front Building,
Park Road A-1, Ashok Nagar, Ranchi,
Jharkhand
4. Firoz Ahmad Khan
Aged about 77 years, Occ. Retired
R/o 46-C, Ground Floor, Front Building,
Park Road A-1, Ashok Nagar, Ranchi,
Jharkhand

... Applicants

// VERSUS //

1. State of Maharashtra,
through Police Station Officer,
Police Station Mankapur, District Nagpur
Tahsil and District Nagpur.
2. Shagufta Afroz W/o Faisal Ahmad Khan,
Aged about 40 years, Occupation: Private
Job, R/o Plot No. 39/A, Rathod Layout,
Anant Nagar, Near Nasheman Hall, Nagpur

... Non-applicants

Shri M. Husain, Advocate for the applicants.

Ms. Shamsi Haider, APP for the non-applicant/State.

Shri R.A.Bhoyar, Advocate for the non-applicant/State.

**CORAM : ANIL S. KILOR &
PRAVIN S. PATIL, JJ.**

DATED : 2nd APRIL, 2025.

ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)

Rule. Rule is made returnable forthwith. By consent of the learned counsel for the parties, the matter is taken for final disposal.

2. By this application filed under Section 482 of Code of Criminal Procedure, the applicants are challenging the proceeding of Regular Criminal Case No. 684 of 2024 pending before 7th Joint Civil Judge, Senior Division and Judicial Magistrate First Class, Nagpur arising out of First Information Report No. 0168 of 2023 and Charge-Sheet No. 9 of 2023 for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code at Police Station Mankapur, District Nagpur.

3. In short, case of prosecution is that marriage of informant was performed with accused no.1 Faisal Ahmed Khan on 5th January 2016. After marriage as her husband was in service at Trivandrum, she started residing with her husband at Trivandrum. Immediately, after marriage quarrels were taken place between them. She further alleged sometimes

her husband used to drop her to the house of her in-laws. At that time her in-laws used to harass and abused her on the ground of non-bringing of dowry as per their expectation.

4. It is further alleged that during the pandemic of Covid-19 her in-laws came to reside at Trivandrum. At Trivandram also, they used to abused her on ground of dowry. As per the informant, all valuable and important documents of her daughter was in custody of in-laws and her husband. When she approached to husband on 5th May 2023 and requested to handover the said documents, she was abused by husband and refused to handover birth certificate of her daughter. As such, on the basis of these allegations, she has lodged police report on 17th June 2023 to the Police Station, Mankapur, District Nagpur. On her report, the offence was registered under sections 506, 504, 498-A, 323 and 34 of Indian Penal Code against her husband and all family members of husband.

5. The present applicants who approached before this Court by filing present application are sister-in-law, brother-in-law, mother-in-law and father in law of the informant.

6. In the present case after issuing notice to the non applicants, non-applicant no.1/State filed reply stating that after registration of the First Information Report, investigating agency issued notice to the accused persons and recorded their statements and collected necessary documents. According to them, after investigation the charge-sheet was filed on 7th February 2023. As per the investigation agency, ample material is found against the present applicants which demonstrate the active participation of the present applicants in the commission of crime and therefore, it is not a fit case for invoking inherent powers of this Court.

7. As per the record, by order dated 22nd October 2024, notices were issued to the non-applicant no.2. Initially, the notice was not served therefore, fresh notice was issued on her by order dated 4th December 2024. After issuance of notice Advocate Ramesh Bhoyar appeared on behalf of non applicant no. 2. But on subsequent dates he choose not to appear in the matter. As such, it is clear from record that notice was duly served on the non-applicant no. 2, but she neither filed her reply nor

attending the matter, therefore, we proceed to decide the present application on its own merit.

8. Informant/complainant failed to substantiate her allegation by giving details of time, date, place or manner in which she was dropped by her husband at applicants' house and what kind of service problem her husband was facing which necessitated him to drop informant from Trivendrum to applicants' house at Jharkhand. As such, allegation levelled against them are vague and omnibus. Furthermore, no reason came forward about the occasion of applicants to visit the house of informant repeatedly nor there was any reason for them to procure the documents of her daughter, particularly, school certificate. As such, all allegations levelled against them are vague and omnibus.

9. Learned counsel for the applicants has relied upon the judgment of Honorable Supreme Court in the case of Kahkashan Kausar alias Sonam and others Vs. State of Bihar and others reported in 2022 (6) SCC 559. According to them, as per the law laid down by Hon'ble Supreme Court, it is held that in the matrimonial matters, it is noticed that section 498-A of Indian Penal Code is misused by impleading the

relatives of the husband in matrimonial dispute. It is noticed by the Hon'ble Supreme Court that by false implication of general omnibus allegations, the senior members of the family requires to face criminal prosecution. Therefore, it is necessary for the Courts to be careful in proceedings against the distant relative in crime pertinent to matrimonial dispute. The relatives of the husband should not be roped in on the basis of omnibus allegations unless substantive instance in the crime is made out against them.

10. In the teeth of observation of Honorable Supreme Court we have minutely perused the First Information Report and statement recorded by the investigating agency. After perusal of same, we find that in the present case the applicant nos. 3 and 4 who are mother-in-law and father-in-law of the informant are of aged of 71 and 77 years respectively and both are residing at Jharkhand. Against them the allegation is that they used to give her ill-treatment and abused her. By any stretch of imagination, such allegations against the old age persons cannot be accepted particularly in absence of any specific incident and details pointed out by informant from record. Therefore, *prima facie* we are of

the opinion that allegations against the applicant nos. 3 and 4 are vague and omnibus.

11. The applicants are the relatives of accused no.1 / husband and are residing at different places. Applicant no 1 is residing at Gurgaon, Haryana. Applicant no.2 residing at Pune and applicant nos. 3 and 4 are residing at Jharkhand. As such, it is difficult to believe that they were in regular contact with the informant after her marriage with accused no.1. Furthermore, as per the allegation levelled against them informant has not provided any specific details nor described any particular instance of harassment.

12. Applicant nos. 1 and 2 who are the sister-in-law and brother-in-law of the informant, it is alleged that due to non fulfillment of demand of dowry, they used to harass her. As we have already stated that applicant no. 1 is a resident of Gurgaon Haryana, applicant no. 2 is the resident of Pune, it is difficult to believe such allegation in absence of specific incidence or details stated by informant. All allegations found to be vague and omnibus. As such on the basis of vague and omnibus allegation, they cannot be roped in the matter.

13. In the light of above said legal and factual position, even if all allegations against applicants are taken at their face value and accepted in their entirety do not *prima facie* constitute a case against the applicants to attract the Sections 498-A, 323, 504 and 506 of Indian Penal Code In that view of matter, keeping continue criminal proceeding against them would amount to abuse of process of law. Therefore, we have no hesitation to hold that criminal proceeding pending against the applicants is liable to be quashed and set aside. Hence, we proceed to pass the following order.

ORDER

- i. Criminal application is allowed;
- ii. Regular Criminal Case No. 684 of 2024 pending before 7th Joint Civil Judge, Senior Division and Judicial Magistrate First Class, Nagpur arising out of First Information Report No. 0168 of 2023 and Charge-Sheet No. 9 of 2023 for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code at Police Station Mankapur, District Nagpur is hereby quashed and set aside against applicant no. 1 **Shaesta Firoz W/o Safdar Ejaj Khan**, applicant

no.2 **Fahad Ahmad Khan S/o Firoz Ahmad Khan**, applicant no. 3 **Nadra Firoz W/o Firoz Ahmad Khan** and applicant no.4 **Firoz Ahmad Khan**.

Rule is made absolute in aforesaid terms. No order as to costs.

[PRAVIN S. PATIL, J.]

[ANIL S. KILOR, J.]