



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

CRIMINAL APPLICATION (APL) NO. 343 OF 2024

1. Shri Dipak S/o Prabhakar Raut,
Age-41 Years, Occupation- Private.
2. Smt. Hemlata W/o Dipak Raut,
Age-35 Years, Occupation-Housewife.
3. Smt. Mira @ Nirmala Prabhakar Raut,
Age-70 Years, Occupation- Housewife,
All 1, 2 & 3 are Residents of: Plot
No.22, Adiwasi Colony, Near
Vrundavan Colony, Saibaba School,
Katol Road, Nagpur.
4. Shri Surendra Janardhan Sanke,
Age 49 Years, Occupation- Service.
5. Smt. Manisha Surendra Sanke,
Age-42 Years, Occupation- Housewife,
Both 4 and 5 Residents of: - Borgaon,
Near Dinshaw Factory, Gittikhadan,
Nagpur.

APPLICANTS

Versus

1. State of Maharashtra,
Through Police Station Officer
Police Station: - Washim City,
Tahsil & District – Washim.
2. Smt. Yogita @ Bhumika Sachin Raut
Age-27 Years, Occupation- Service,
Resident of: - Vasewaadi, Police
Quarters, Washim City,
Tahsil & District- Nagpur.

**NON-
APPLICANTS**

Mr. B.H. Tekam, Advocate for the Applicants.
Mr. A.B. Badar, APP for the Non-applicant No.1/State.
Mr. C.S. Tamhane, Advocate for the Non-applicant No.2.

**CORAM : AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.**

CLOSED FOR JUDGMENT ON :- 25th NOVEMBER 2024

JUDGMENT PRONOUNCED ON :- 16th JANUARY 2025

ORAL JUDGMENT :- (PER : ABHAY J. MANTRI, J.)

Heard.

2. **ADMIT.** With the consent of learned Counsel for the parties, the present Application is taken up for a final hearing at the admission stage itself.

3. The Applicants seek to quash the First Information Report (for short- '*FIR*') dated 17.12.2023 bearing Crime No.885/2023 registered with Washim Police Station for the offences punishable under Sections 498-A, 294, 323 and 506

read with Section 34 of the Indian Penal Code (for short- “the *IPC*”) and consequent filing of the charge-sheet bearing No.37/2024 and initiation of the criminal proceedings bearing R.C.C. No.72/2024 pending before the Chief Judicial Magistrate, Washim pursuant to the First Information Report.

FACTUAL MATRIX

4. The Applicants are in-laws of Non-applicant No.2. Applicant No.1 is the elder brother-in-law, Applicant No.2 is the wife of Applicant No.1, Applicant No.3 is the mother-in-law, Applicant No.4 is the husband of applicant No. 5, Applicant No.5 is the sister-in-law, of Non-applicant No.2. Applicant Nos. 4 and 5 are living separately at Borgaon, Nagpur and Applicant Nos. 1 to 3 are living with Non-applicant No.2 and her husband Sachin. The husband of Non-applicant No.2- Sachin, who is Accused No.1, is not a party to the Application.

5. The marriage of Sachin was solemnized with Non-applicant No.2 on 10.01.2021 as per the rights, rituals and customs prevailing in their community at Amravati. On 17.12.2023, Non-applicant No.2 lodged the report against the

Applicants and her husband Sachin, alleging that they had subjected her to cruelty on account of the demand for dowry. It is also alleged that Accused Sachin was taking doubt of her character, and on that ground, only under the influence of liquor, he used to abuse her in filthy language and gave kicks and fist blows to her. Also, Applicant No.1 and Accused Sachin demanded Rs.10 Lakhs from her and asked her to bring the same from her parents; otherwise, they would not allow her to cohabit with Sachin. It is also alleged that Applicant No.2 was having extramarital affairs with the Accused Sachin. Therefore, Applicant No.2 tried to prevent her from getting married to the accused Sachin. Applicant No.2 was abusing her and also taunting her. The Applicant No.4 was used to defame her. Applicant No.5 was instigating Accused Sachin to beat her.

6. Based on the report, an offence was registered against the applicants and one Sachin vide Crime No.885/2023. Hence, the Applicants have moved this Application.

7. By order of this Court dated 04.03.2024, the Investigating Officer was directed to carry on the investigation,

but the charge sheet shall not be filed without obtaining the leave of this Court. Subsequently, the charge sheet was filed, and therefore, the Applicants have amended the Application to challenge the charge sheet and criminal proceedings pending against them.

8. Mr. Tekam, learned Counsel for the Applicants, vehemently contended that the Applicants are the in-laws of Non-applicant No.2. No direct allegations appear against the Applicants. The allegations are vague and general, and no specific role was attributed to them. The allegations made by the Non-applicant No.2 against the Applicants are concocted. The Applicants have no concern with the crime and have been falsely implicated in the present crime to harass them. The statements of witnesses and the allegations made in the FIR are concocted, false and frivolous against the Applicants only to take revenge. Therefore, he submitted that this is a fit case to invoke the inherent powers of this Court to abuse the Court's process. Hence, he urges the quashing of the FIR and the pending criminal proceedings against them.

9. As against this, Mr. Badar, learned APP for the Non-applicant No.1/State, strenuously argued that the allegations in the FIR and the statement of witnesses prima facie state that the Applicants are actively involved in the crime. It is categorically alleged that Applicant No.1 was making demands of dowry and causing harassment and ill-treatment to her. Also, Applicant No.2 was having extramarital affairs with Accused Sachin and abused her in filthy language. Therefore, he submitted that there was sufficient material against the Applicants to show that they were involved in the crime, and hence, he urged for rejection of the Application.

10. We have appreciated the rival contentions of the learned Counsel for the parties and perused the First Information Report and charge sheet.

11. At the outset, it appears that Non-applicant No.2 had made serious allegations against her husband Sachin, who is not a party to the said Application. Non-applicant No.2 also made allegations against Applicant No.1 that he, along with her husband Sachin, had demanded the amount of Rs.10 Lakhs as

dowry and asked her to bring the said amount from her parents, otherwise, they would not allow her to cohabit with Sachin. Likewise, she also made the allegations against Applicant No.2 that she was having extramarital affairs with her husband, Sachin, as such, she was harassing her by taunting and abusing her in filthy language. *Moreover*, Applicant Nos. 1 and 2 have lived with Accused Sachin and Non-applicant No.2/Yogita.

12. However, no specific allegations appear against Applicant Nos.3 to 5 about subjecting her to cruelty on account of the demand for dowry. The allegations against Applicant Nos.3 to 5 are vague and omnibus; they are general in nature, and no other specific allegations were made against them about their role played or in which manner Applicant No.5 instigated Applicant No.1. The complaint does not provide any specific details nor describe the particular instances of harassment against the Applicant Nos. 3 to 5.

13. We have also gone through the statements of Mother-Suman, Brother-Ashwin, Sisters-Roshni, and Lata of Non-applicant No.2. All of them have reiterated the facts as

stated in the complaint. Their statements appear to be stereotyped. What has been stated in the complaint, the same version, has been reproduced in their statements. *Furthermore*, inconsistency appears in the Complainant and statements of witnesses with respect to the allegations against Applicant No.3/Mira. So also, these witnesses have not provided the details nor described the particular instances of harassment by Applicant Nos.3 to 5. They did not mention the time, place, or manner in which they caused the alleged harassment. Therefore, the complaints and statements of witnesses lack concrete and precise allegations.

14. The Hon'ble Apex Court recently, in the case of ***Dara Lakshmi Narayana & others V/s State of Telangana & Another, 2024 SCC Online SC 3682***, after considering the parameters laid down in the decision in "***Bhajanlal's Case***" and other various decisions of the Hon'ble Apex Court has observed that:-

"A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement, should be nipped in the bud. It is a well-recognized fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes

arise out of matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessarily harassing innocent family members.”

(Emphasis Supplied)

15. Apart from the above, in ***Geeta Mehrotra and Another V. State of U.P and Another***, reported in ***2012(10) SCC 741***, the Hon’ble Apex Court has categorically observed that:

“if the contents of the first information report did not disclose specific allegations against the brother and sister of the complainant’s husband to make them liable, for bickering between non-applicant No. 2 and her husband, except the casual reference of their names, it would not be just to direct them to go through the protracting procedure, so also by merely making the general allegation that they were involved for physical and mental torture of the complainant without any allegation of their active involvement or mentioning the single incident against them as also the fact as to how they could be motivated the demand of dowry when they are only related to husband as brother or sister, and therefore, quashed the proceedings against them.”

(Emphasis supplied)

16. In addition, in ***Kahkashan Kausar @ Sonam and Others V. The State of Bihar and Others***, reported in ***(2022) 6 SCC 599***, the Hon’ble Apex Court has held that:

“The Courts should be careful in the proceedings against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths and must keep in mind that relatives of the husband should not be roped on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out.”

It is further observed that *“the ultimate object of justice is to find out the truth, punish the guilty, and protect the innocent. To find out the truth is a herculean task in the majority of these complaints. The tendency to implicate the husband and all his inmate's immediate relations is also not uncommon. At times, even if the conclusions of a 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 consider pragmatic realities while dealing with matrimonial cases. The allegations of the harassment of the husband's close relations, who had been living in different cities and never visited or rarely the place where the complainant resided, would have an entirely different complexion. The allegations of the complaint are required to be scrutinised with great care and circumspection.”*

(Emphasis Supplied)

17. Based on the aforesaid mandate of the Hon'ble Apex Court in the catena of decisions, we have considered the facts in the case at hand. In the case, no specific allegations appear against applicants Nos.3 to 5, nor are there specific allegations against them that they demanded the dowry at any time from the Non-applicant No.2 or *were actively involved*. However, the

accusations against them are vague and general. Besides, It does not disclose specific allegations against Applicants Nos. 3 to 5 to make them liable for bickering between Non-applicant No.2 and Accused Sachin, but only exists casual reference of their names, it would not be appropriate to direct them to go through the protracting procedure, so also merely making general allegation that they were instigating the Accused Sachin without any allegation of their active involvement or mentioning the single incident against them, as to how they could make the demand of dowry since the Applicants Nos. 4 and 5 are living separately. The allegations against Applicant No.3 appear vague and omnibus without any specific incident of her involvement in the crime.

18. Thus, in our considered opinion, the Applicant Nos. 3 to 5 emphatically made out a case to quash the First Information Report and criminal proceedings pending against them by invoking the inherent powers of this Court to meet the ends of justice; however, Applicant Nos.1 and 2 *prima facie* failed to make out the case to quash the proceedings against them in relation to Section 498-A of the IPC. Consequently,

prima facie, the material on record does not disclose the ingredients of the commission of the offence at the hands of Applicant Nos. 3 to 5 indicating that they had subjected the Non-applicant No.2 to cruelty on account of demand of dowry. In such circumstances, they cannot be dragged into criminal prosecution, and it would be an abuse of the process of the law in the absence of specific allegations made against each of them.

19. As a result, we find that the case at hand to the extent of Applicant Nos. 3 to 5 is squarely covered by what has been held and observed in the above-cited decisions of the Hon'ble Apex Court.

20. In view of the discussion above and the law laid down by the Hon'ble Apex Court, we find that continuation of criminal proceedings before the learned Trial Court against Applicant Nos. 3 to 5 would result in abuse of the process of the Court and would not serve the ends of justice. Therefore, in exercising powers under Section 482 of the Code of Criminal Procedure, 1973/528 of the Bharatiya Nagarik Suraksha

Sanhita, 2023, we pass the following order.

ORDER

- i. The Application is **partly allowed** to the extent of Applicants No.3 to 5 and dismissed against Applicants No.1 and 2.
 - ii. The First Information Report bearing No.885/2023, registered at Police Station Washim, for the offences punishable under Sections 498-A, 294, 323, 506 read with Section 34 of the Indian Penal Code, and filing of the Charge-sheet bearing No.37/2024 as well as criminal proceedings bearing R.C.C. No.72/2024 pending before the learned Chief Judicial Magistrate, Washim against Applicant Nos.3 to 5 pursuant to the said First Information Report, is hereby quashed and set aside.
 - iii. Inform the learned Chief Judicial Magistrate, Washim, accordingly.
21. Pending applications, if any, shall stand disposed of accordingly.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)