



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

CRIMINAL APPLICATION [APL] NO.883 OF 2024

As per court's
order dt. 28/6/24
application
withdrawn
against applicant
no.1.

1. [Shivkumar Tularam Jambhulkar,
Age about 40 years, Occu. Service,
R/o. House of Meenabai Dahake,
Shinde Nagar, Near Auto Point,
Yavatmal, Tah. Yavatmal,
District-Yavatmal].
2. Tularam Dhomaji Jhambulkar,
Age about 70 years,
Occupation-Salon Shop,
R/o. Old Paradi Naka, Tahsil and
District-Nagpur.
3. Indu Tularam Jhambulkar,
Age about 67 years,
Occupation-Homemaker,
R/o. Old Paradi Naka, Tahsil and
District-Nagpur.

.. Applicants

.. Versus ..

1. State of Maharashtra, through
Police Station Officer, Police Station
Sakoli, Tahsil and District-Bhandara.
2. Sangita Shivkumar Jambhulkar,
Age about 36 years,
Occupation-Housewife,
R/o. A/p. At house of
Bhaskar Suryawanshi, Panchasil
Ward, Sakoli, Tah. Sakoli,
District-Bhandara.

.. Non-Applicants

Shri Rudra Malokar, Advocate a/w Shri Omkar R. Deshpande,
Advocate for Applicants,

Shri G.S. Umale, Additional Public Prosecutor for Non-Applicant
No.1/State.

Ms. Radha M. Mishra, Advocate (Appointed) for Non-Applicant
No.2.

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CORAM : ANIL S. KILOR AND
PRAVIN S. PATIL, JJ.

DATED : 03rd 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 applicants are seeking to quash and set aside the criminal proceeding bearing Regular Criminal Case No.159/2023 pending on the file of learned Judicial Magistrate, First Class, Sakoli, District-Bhandara arising out of Chargesheet No.313/2023 dated 30.11.2023 and FIR registered vide Crime No.0120/2023 with Police Station, Sakoli for the offences punishable under Sections 498-A, 294, 323, 504 and 506 read with Section 34 of the Indian Penal Code.

3. The case of the prosecution is that the informant on 21.03.2023 lodged a police complaint alleging that her marriage was solemnized with accused no.1 namely Shivkumar on 28.04.2008 and started cohabiting with him at Yavatmal. From Yavatmal, the services of her husband were transferred to Amravati and thereafter, she has resided with him at Amravati. Husband is working as a jail police.

4. It is further alleged that informant's husband's services were transferred from Amravati to Central Jail, Nagpur. Accordingly, informant started residing with the present applicants. During that period, husband used to harass her mentally and physically. Informant therefore approached to the present applicants to raise grievance against applicant that time instead of supporting her, applicants instigated husband against her by saying that she is characterless woman and her father has given less dowry. They also insulted her by stating that she is having an illicit relations with one Jitesh Fulbandhe. As such, present applicants are equally responsible for her ill-treatment. On the basis of this accusation, the offence under Section 498-A

of the Indian Penal Code came to be registered against applicants.

5. The present applicants, who are father-in-law and mother-in-law of informant, having 70 and 67 years old respectively, came with a submission before this court that since 11.11.2021 they are residing separately from the non-applicant no.2/informant. Therefore, incidence of ill-treatment was never took place as alleged by the informant. It is further submitted that non-applicant no.2 before lodging the complaint she already filed P.W.D.V. case No.31/2021 under the provisions of Domestic Violence Act against them on 10.11.2021. Hence, the allegation made in police complaint against them is after-thought and only with a view to drag them in a criminal offence. It is stated that allegations made by the non-applicant no.2 are vague and omnibus. The allegations are in the nature of instigation at the instance of the applicants and the same is not supported by any specific detail nor described any particular instance of harassment. As such, in the absence of time, date and place or manner in which the alleged harassment occurred, no offence is made out against them under Section 498-A, 294,

323, 504, 506 read with section 34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

6. We have heard the learned counsel for the applicants and learned APP for non-applicant no.1/State and learned counsel for non-applicant no.2-informant.

7. From the perusal of record, we find that the present applicants have no connection to the matter in hand and have been dragged into the web of crime without any reason. The record do not substantiate any specific allegation against the applicants that they used to instigate the applicant no.1/husband for demanding more dowry. Furthermore, from the record, it is clear that non-applicant no.2/informant has resided with her husband initially at Yavatmal and then at Amravati. The period of residing with the applicants is not specifically stated in the complaint nor the same is available on record. Therefore, the alleged instigation at the instance of applicants seems to be not trustworthy.

8. It is also clear from the record that the non-applicant no.2/informant on 10.11.2021 left the house and since then not residing with the applicants. She has filed the complaint against the applicants under the Domestic Violence Act on 17.12.2021 before the learned Judicial Magistrate, First Class, Sakoli. Thereafter, on 21.03.2023 i.e. almost after a period of two years, lodged complaint against the applicants. There is no explanation of delay for lodging the complaint against the applicants. Hence, *prima facie*, it is clear that the non-applicant no.2/informant out of tendency to involve all family members in the web of crime added their names in the complaint.

9. As per the settled principles of law, a mere reference to the names of family members in criminal case arising out of the matrimonial dispute without specific allegations and credible evidence indicating their active involvement should be nipped in the bud. Because now a days it is become a tendency to implicate all the members of the husband's family in the domestic dispute arising out of matrimonial discord. In such cases, the court is required to exercise caution to prevent misuse of legal provision and the legal process and further to avoid

unnecessary harassment of innocent family members. In the present case, the present applicants are old aged persons and the allegations against them are vague and omnibus. No specific details nor any particular incidence of harassment is stated in the complaint.

10. According to us, *prima facie*, we do not find that the applicants have any connection with the alleged offence in which they have been dragged into the web of crime with a oblique motive. Hence, the present application deserves to be allowed in the facts and circumstances of the present case. Hence, we proceed to pass the following order :

O R D E R

- (i) The application is allowed.
- (ii) Regular Criminal Case No.159/2023 pending on the file of the learned Judicial Magistrate, First Class, Sakoli, District-Bhandara arising out of Chargesheet No.313/2023 dated 30.11.2023 and Crime No.0120/2023 registered with Police Station, Sakoli for the offences punishable under Sections 498-A, 294, 323, 504 and 506 read with Section 34 of the Indian Penal Code, is hereby quashed and set aside against the

applicant nos.2 and 3.

(iii) Fees of the learned counsel appointed on behalf of the non-applicant no.2-informant be quantified as per the rules.

11. Rule is made absolute in the above terms.

(Pravin S. Patil, J.)

(Anil S. Kilor, J.)