



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

CRIMINAL APPLICATION [APL] NO.920 OF 2024

As per Court's
order dated
04/07/2024
application
withdrawn against
applicant no.1.

1. [Harendra s/o Suvalal Thakare,
Age 37 yers, Occ : Private,
R/o. Shivnagar, Near Delhi Public School,
Dabha, Nagpur.] (Husband of NA-2)
 2. Jitendra Suvalal Thakare,
Age 42 yers, Occ : Service,
R/o. Plot No.136, Ganeshnagar,
Dabha, Nagpur. (Brother-in-law of NA-2)
 3. Renubai Suvalal Thakare,
Age 74, Occ : Homemaker,
R/o. At Post Chicholi Tumsar,
District-Bhandara. (Mother-in-law of NA-2)
 4. Aarti w/o Jitendra Thakare,
Age 37 years, Occ : Service,
R/o. Plot No.136, Ganeshnagar,
Dabha, Nagpur. (Wife of Applicant No.2)
- .. Applicants

.. Versus ..

1. The State of Maharashtra,
Through Police Station Officer,
Police Station Gittikhadan,
Nagpur.
2. Smt. Rashmi w/o Harendra Thakare
(Wife of Applicant No.1),
Age 41 years, Occ : Govt. Service,
R/o. Flat No.001, Vyankatesh Kirti
Apartment, Kothi Road, Mahal,
Nagpur. .. Non-Applicants

Shri D.U. Thakare, Advocate for Applicants.
Smt. Shamsi Haider, APP for Non-Applicant No.1/State.
Shri S.G. Karmarkar, Advocate for Non-Applicant No.2.

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CORAM : ANIL S. KILOR AND
PRAVIN S. PATIL, JJ.
DATED : 09th 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 challenging the criminal proceeding bearing Regular Criminal Case No.1948/2024 pending on the file of learned Judicial Magistrate, First Class, Nagpur arising out of Chargesheet No.03/2024 and Crime No.0206/2023 dated 04.04.2023 registered with Police Station, Gittikhadan, Nagpur.

3. In short, the case of the prosecution is that the informant on 04.04.2023 lodged a police complaint stating

therein that out of love affair, she has performed the marriage with accused no.1 Harendra on 16.11.2016. After the marriage, they have started residing at Railway Quarter, Ajni, Nagpur. It is stated that, at the time of marriage, she was working as a Senior Clerk in Central Railway. She alleged that her husband, being an alcoholic, used to torture, abuse and beat her. It is alleged against the present applicants that they have supported her husband for torturing her. Applicants also treated her inhumanly on the count of dowry. The main allegation against the applicants is that they were instigating her husband and thereby she was ill-treated at the hands of her husband. On the basis of this allegation, offence was registered against the applicants for the offences punishable under Section 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code.

4. The applicants, including the husband, approached before this Court to challenge the registration of criminal proceeding against them. However, this court was not inclined to consider the case of applicant no.1/husband and as per order dated 04.07.2024, the case in respect of applicant no.1-husband was allowed to be withdrawn. Accordingly, at present applicant

nos.2 to 4, who are the brothers-in-law and mother-in-law of the informant/complainant are prosecuting their cause by present application.

5. The applicants, by way of present application, came with a submission that a bare perusal of FIR and chargesheet, it is clear that allegations levelled against them are vague and omnibus. Only allegation against them is that husband has harassed her due to instigation of applicants. Informant-non-applicant no.2 not stated any specific details or description of any particular incidence of harassment. Informant also not mentioned the time, date and place or manner in which the alleged harassment occurred at the instance of applicants. Therefore, according to the applicants, the FIR as well as chargesheet lacks concrete and precise allegations. As such, informant misused the legal provisions and legal process in order to cause harassment to innocent family members, therefore, it is a fit case to quash and set aside the criminal proceeding registered against them.

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

7. The present matter arises out of matrimonial dispute, therefore, we think it proper to first consider the recent law laid down by Hon'ble Supreme Court of India in the case of ***Dara Lakshmi Narayana and others .vs. State of Telangana and another rising out of SLP (Criminal) No.16239/2024***. Hon'ble Supreme Court has observed as under :

28. The inclusion of [Section 498A](#) of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like [Section 498A](#) of the IPC as a tool for unleashing personal vendetta against the husband and his family by a wife.

Making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke [Section 498A](#) of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband

and his family in the absence of a clear prima facie case against them.

30. In the above context, this Court in *G.V. Rao vs. L.H.V. Prasad*, (2000) 3 SCC 693 observed as follows:

“12. There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case.

There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their “cases” in different courts.”

31. Further, this Court in *Preeti Gupta vs. State of Jharkhand* (2010) 7 SCC 667 held that the courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment by the husband’s close relatives who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinized with great care and circumspection.

8. In light of above settled legal position, we have perused the chargesheet and the FIR in the matter. It is clear from the record that the allegations against the present applicants are general in nature. It is nowhere specifically stated by the informant as well as other witnesses about the role of the present applicants for implicating them in the offence. We have noticed from the perusal of the record that all the allegations against the applicants are vague and omnibus in nature.

9. In present matter, applicants are in-laws of informant. All the allegation of informant are against husband. Only allegation against the applicants is that they used to instigate her husband against her. No instances are quoted nor date, time is provided. Therefore, we are of the view that allegations against applicants are vague and omnibus. On the basis of such vague and omnibus allegations compelling applicants to face the criminal trial is nothing but an abuse of process of the court. According to us, allegations levelled in the complaint, even accepted on its face value, no offence is made out against the present applicants.

10. It will be necessary to refer the law laid down in the case of *State of Haryana and others .vs. Bhajan Lal, reported in 1992 Supp.(1) SCC 335*, wherein Hon'ble Supreme Court held that where criminal proceedings are maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, then the power should be exercised under Section 482 of the Code of Criminal Procedure to quash and set aside criminal proceeding registered against the accused persons. Applying the said principles of law, we are of considered opinion that the informant implicated the present applicants with an oblique motive. It is to be noted that the prosecution has mechanically accepted the allegations of the informant without applying their judicial mind.

Hence, this is a fit case to quash and set aside the criminal proceeding registered against the applicants.

ORDER

- (i) The application is allowed.
- (ii) Regular Criminal Case No.1948/2024 pending on the file of the learned Judicial Magistrate, First Class, Nagpur

arising out of Chargesheet No.03/2024 and Crime No.0206/2023 dated 04.04.2023 registered with Police Station, Gittikhadan, Nagpur is hereby quashed and set aside to the extent of applicant nos.2 to 4 only.

11. Rule is made absolute in the above terms.

(Pravin S. Patil, J.)

(Anil S. Kilor, J.)