



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 249 OF 2024

- 1] Pratik Kirtichand Bora (Husband)
Age – 34 years, Occu. : Service,
R/o. Gautam Medical, Near Peoples Bank Hingoli,
Tq. & Dist. Hingoli
- 2] Ratnakanta Kirtichand Bora (Mother-in-law)
Age – 60 years, Occu. : Household,
R/o. Gautam Medical, Near Peoples Bank Hingoli,
Tq. & Dist. Hingoli
- 3] Kirtichand Uttamchand Bora (Father-in-law)
Age – 61 years, Occu. : Nil,
R/o. Gautam Medical, Near Peoples Bank Hingoli,
Tq. & Dist. Hingoli
- 4] Vimalchand Uttamchand Bora (Cousine Father in law)
Age – 58 years, Occu. : Business
R/o. Aundha Nagnath, Tq. Aundha Nagnath,
Dist. Hingoli,
- 5] Mayur Vimalchand Bora (Cousine Brother in law)
Age – 32 years, Occu. : Business
R/o. Aundha Nagnath, Tq. Aundha Nagnath,
Dist. Hingoli
- 6] Suresh Sampatrajaji Mutha (Maternal Father in law)
Age – 65 years, Occu. : Business,
R/o. R.P. Road, Jalna
- 7] Vandana Suganchandji Pipada (Cousine Sister in law)
Age – 60 years, Occ. : Household,
R/o. Khawa Market, Machhali Khadak,
Sadar Bazaar, Jalna

.. Applicants

Versus

- 1] State of Maharashtra
Through Police Inspector,
Police Station, Talwada, Dist. Hingoli

2] Sonal Pratik Bora,
Age : 31 years, Occu. : Doctor,
R/o. Gautam Medical, Near Peoples Bank
Hingoli, Tq. & Dist. Hingoli,
At present R/o. Sudarshan Niwas,
Sambhaji Nagar, Jintur,
Tq. Jintur, Dist. Parbhani

.. Respondents

...
Advocate for applicants : Mr. V.A. Bagdiya
APP for the respondent – State : Mr. V.V. Jahagirdar
Advocate for respondent no. 2 : Mr. Rehan Khan h/f. Mr. Mukul Kulkarni
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CORAM : RAJNISH R. VYAS, J.

DATE : 25 MARCH 2026

ORAL ORDER :

Heard learned counsel for the respective parties.

2. Challenge in this Application is to the FIR bearing no. 0437 of 2023 registered with Jintur Police Station, District - Parbhani for commission of the offences punishable under section 498-A, 323, 504 r/w. 34 of the Indian Penal Code and consequent filing of charge sheet, registration of Regular Criminal Case No. 06 of 2024 pending before the learned JMFC Court, Jintur, District – Parbhani and the order taking cognizance / issue process dated 24.01.2024 at the instance of the husband and the relatives of the husband.

3. At the outset, it is necessary to mention here that so far as the application pertaining to applicant no. 1 – Pratik Kirtichand Bora is

concerned, the same was not pressed by the learned counsel for the applicants. Application qua applicant no. 1 is disposed of as not pressed. In view thereof, the proceedings against the husband / applicant no. 1 – Pratik Kirtichand Bora, may continue.

4. So far as applicants no. 2 to 7 are concerned, they are relatives of husband, which is more clear from cause title of the case. The non-applicant no. 2 is the informant / wife of the original applicant no. 1. In FIR lodged at the instance of the non-applicant no. 2 on 19.10.2023 at Jintur Police Station, it is alleged that marriage was solemnized on 16.11.2016 as per Hindu rites and ceremonies and at that time, 24 tola of gold ornaments and Rs.51,000/- were given. After marriage, for two months, the non-applicant no. 2 resided with the in-laws and then shifted to Pune along with her husband. At Pune, the non-applicant no.2 had worked with one Sancheti Advance Homeopathic Clinic and she was blessed with a daughter in the year 2019.

5. It is alleged in the FIR that one of the applicants by name Gautamchand – father in law of non-applicant no. 2 fell ill and, thus, on 28.05.2019, non-applicant no. 2 shifted to Hingoli where she stayed for 1-1/2 year. The non-applicant no. 2 alleged that during that period, the in-laws used to harass her by saying that in-fact she should have given

birth to a boy and not a girl and on that count, they used to abuse her. It was also alleged that for construction of house and hospital, an amount of Rs.20,00,000/- was demanded by the in-laws. On that count, she was subjected to physical and mental harassment. The non-applicant no. 2 has further alleged that the other relatives including the brother-in-law, uncle of the husband so also the maternal uncle and the cousin sister in law used to visit her house frequently and used to telephonically inform the husband for not taking the non-applicant no. 2 to Pune. She further alleged that when husband returned from Pune to Hingoli, she was beaten by means of slaps and blows and was abused. On 06.06.2021, her husband had been to her father's place, where she narrated the harassment to her parents.

6. It is alleged in the FIR by the non-applicant no. 2 that on 09.08.2021, when her parents were taken to the matrimonial house in order to amicably settle the matter, they were driven out of the house by saying that non-applicant no. 2 first should bring Rs.20,00,000/-. At that time, some other persons also accompanied the parents of the informant. It is this incident, which lastly triggered the intention of the non-applicant no. 2 to set the criminal law in motion and ultimately, the FIR was filed on 19.10.2023.

7. In this background, learned counsel for the applicants has submitted that bare perusal of the final report will reveal that even if the contents are taken to be true, no man of ordinary prudence will arrive at a conclusion that the allegations make out offences as levelled against the applicants.

8. Learned counsel for the applicants has also submitted that if the sequence of events are perused, it will reveal initiation of the criminal prosecution is a striking example of abuse of criminal law and counter blast. He submitted that initially, a notice was sent by the husband to the non-applicant no. 2 on 20.08.2022, praying for restitution of conjugal rights which was replied by her on 23.03.2023. The consequent notice at the behest of the husband was issued to the non-applicant no. 2 on 15.04.2023 and ultimately, recourse to section 13 of the Hindu Marriage Act was taken by filing the petition in the month of June 2023 by husband before the Family Court. It is submitted that due to this, FIR was lodged in order to adopt arm twisting tactics.

9. Per contra, Mr.Rehan Khan h/f. Mr. Mukul Deshmukh, learned counsel for respondent no. 2 has submitted that considering the scope of the present Application, mini trial cannot be conducted

and no prima facie case is made out against the applicants. He, thus, prays for dismissal of the Application.

10. Learned APP has also supported the counsel for the respondent no. 2 and submits that final report makes out the ingredients of the offences registered and, therefore, the Application be dismissed.

11. With the help of respective counsels, I have gone through the record of the case. It is not in dispute that marriage was solemnized on 16.11.2016 and the parties started residing separately on 06.06.2021. The FIR was lodged on 19.10.2023 almost after two years. Thus, there is huge delay between these two dates, i.e. the date from which the respondent no. 2 started residing separately and date on which report was lodged, which remains unexplained. Though delay in lodging the FIR may not be fatal in every case but visited in the background of the present case, it would reveal that an attempt was made to set the criminal law in motion not with a view to punish the guilty but to pressurize the family members of the husband.

12. So far as the allegations in the FIR are concerned, suffice it to say that the same are vague and are omnibus in nature qua the applicants. The FIR, final report is bereft of specific dates and time. The omnibus statements should not be enough to attract the offences

punishable under section 498-A of the Indian Penal Code. Exchange of notices by the husband and non-applicant no. 2 prior to lodging report shows that, non-applicant no. 2 had lodged report after deliberation.

13. At this juncture, it is necessary to take into consideration the law laid down by the Hon'ble Apex Court in the case of **Chandralekha and others V. State of Rajasthan and another** reported in **(2013) 14 SCC 374**, more particularly, paragraph no. 9 thereof, which reads as under :-

“9 . We must, at the outset, state that the High Court's view on jurisdiction meets with our approval and we confirm the view. However, after a careful perusal of the FIR and after taking into consideration the attendant circumstances, we are of the opinion that the FIR lodged by respondent 2 insofar as it relates to appellants 1, 2 and 3 deserves to be quashed. The allegations are extremely general in nature. No specific role is attributed to each of the appellants. Respondent 2 has stated that after the marriage, she resided with her husband at Ahmedabad. It is not clear whether appellants 1, 2 and 3 were residing with them at Ahmedabad. The marriage took place on 9/7/2002 and respondent 2 left her matrimonial home on 15/2/2003 i.e. within a period of seven months. Thereafter, respondent 2 took no steps to file any complaint against the appellants. Six years after she left the house, the present FIR is lodged making extremely vague and general allegations against appellants 1, 2 and 3. It is important to remember that appellant 2 is a married sister-in-law. In our opinion, such extra ordinary delay in lodging the FIR raises grave doubt about the truthfulness of allegations made by respondent 2 against appellants 1, 2 and 3, which are, in any case, general in nature. We have no doubt that by making such reckless and vague allegations, respondent 2 has tried to rope them in this case along with her husband. We are of the confirmed opinion that continuation of the criminal proceedings against appellants 1, 2 and 3 pursuant to this FIR is an abuse of process of law. In the

interest of justice, therefore, the FIR deserves to be quashed insofar as it relates to appellants 1, 2 and 3."

and ***Neelu Chopra and another Vs. Bharti*** reported in **(2009) 10 SCC 184**, more particularly, paragraphs no. 5 and 6, which are as under :-

"5. In order to lodge a proper complaint, mere mention of the sections and the language of those sections is not be all and end of the matter. What is required to be brought to the notice of the court is the particulars of the offence committed by each and every accused and the role played by each and every accused in committing of that offence. When we see the complaint, the complaint is sadly vague. It does not show as to which accused has committed what offence and what is the exact role played by these appellants in the commission of offence. There could be said something against Rajesh, as the allegations are made against him more precisely but he is no more and has already expired. Under such circumstances, it would be an abuse of process of law to allow the prosecution to continue against the aged parents of Rajesh, the present appellants herein on the basis of vague and general complaint which is silent about the precise acts of the appellants.

6. The High Court has merely mentioned that the allegation in the complaint are of retaining jewellery articles in possession of the husband and the petitioners. Now if the articles were in the possession of the husband, there is no question of the present appellants being in possession of the jewellery. This is apart from the fact that it has already been expressed by us that there is no mention of the date on which the said ornaments, if any, were entrusted to the appellants or even the date when they were demanded back and were refused to be given back by the appellants or any one of them. Insofar as the offence under Section 498A IPC is concerned, we do not find any material or allegation worth the name against the present appellants. All the allegations appear to be against the Rajesh."

It is well settled principle of law that powers under section 482 of the Code of Criminal Procedure can be utilized in the interest of justice.

14. Considering the fact that the allegations against the applicants no. 2 to 7 are vague and omnibus, I am inclined to pass the following order :

ORDER

I) Criminal Application so far applicants no. 2 to 7 are concerned, the same stands allowed.

II) FIR bearing no. 0437 of 2023 registered with Jintur Police Station, District - Parbhani for commission of the offences punishable under section 498-A, 323, 504 r/w. 34 of the Indian Penal Code and consequent filing of charge sheet, registration of Regular Criminal Case No. 06 of 2024 pending before the learned JMFC Court, Jintur, District – Parbhani and the order taking cognizance / issue process dated 24.01.2024 are hereby set aside qua the applicants no. 2 to 7.

III) Prosecution to continue against original accused no. 1 – husband of the non-applicant no. 2 – Pratik Kirtichand Bora.

15. Criminal Application is disposed of.

**[RAJNISH R. VYAS]
JUDGE**

arp/