



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 43 OF 2024

1. Shivprasad s/o. Madhav Katte,
Age : 42 Years, Occu. : Service,
R/o. Latur SP Office, Latur.
2. Madhav s/o. Digambar Katte,
Age : 68 years, Occu. : Business,
R/o. House No.116, 133/2, Near Bus Stop,
Hudco, New Nanded, Kautha, Nanded.
3. Jaydevi w/o. Madhav Katte,
Age : 63 years, Occu. : Household,
R/o. House No. 116, 133/2, Near Bus Stop,
Hudco, New Nanded.
4. Gajanan S/o. Madhav Katte,
Age : 36 years, Occu. : Business,
R/o. Kautha, New Nanded.
5. Savita w/o. Gajanan Katte,
Age : 33 years, Occu. : Household,
R/o. Kautha, New Nanded. ... Applicants

Versus

1. The State of Maharashtra,
Through Police Inspector,
Nanded Rural Police Station,
Nanded, Tq. & Dist. Nanded.
2. Madhav Govindrao Dhulshete,
Age : 50 years, Occu. : Agri.,
R/o. Jalkot, Tq. Jalkot, Dist. Latur. ... Respondents

.....

Mr. S. S. Gangakhedkar, Advocate for Applicants.

Mr. S. G. Sangle, APP for Respondent No.1- State.

Mrs. Tina M. Tripathi, Advocate for Respondent No.2 (Appointed).

.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 28 JANUARY 2026

PRONOUNCED ON : 02 FEBRUARY 2026

JUDGMENT :

1. Revisionist, who are accused in Crime No.232/2016 registered at Nanded Rural Police Station and whose application under section 239 of Cr.P.C. seeking discharge stood rejected, have challenged the order dated 16.01.2024 passed by learned Additional Sessions Judge-1, Nanded, by invoking revisionary powers of this court under section 401 of Cr.P.C.

2. Father of deceased Sangita, informant, namely Madhav Govind Dhulshette set law into motion alleging that, his deceased daughter Sangita was married to revision petitioner no.1 in 2010 and she had a son and a daughter. According to him, for initial period of two years, his daughter was treated properly. Thereafter, he alleges that, husband, parents-in-law, brother-in-law and wife of brother-in-law of his deceased daughter put up demand of Rs.5,00,000/-, which have remained unpaid by way of dowry. According to him, accused in-laws taunted that they did not like her, unpaid dowry being not paid, she was given stale food and prevented from sleeping with husband and even declared that they did not like her and asked her to give divorce and after beating she was driven out of the house by her in-laws. He and some villagers gave understanding to the accused. Further, according to him, on 11.07.2016, his daughter

made a phone call to his wife and while crying she informed that in-laws are demanding the unpaid dowry and also demanding money for purchasing house. Husband threatened to give divorce for not meeting above demand.

Informant gave supplementary statement on 30.08.2016 and added that, apart from above, he wanted to report that on 29.04.2016, at the time of ring ceremony of sister of husband, namely Shilpa, understanding was given to accused and further assurance was given that the demand would be met.

3. Pointing to the above FIR and charge-sheet, learned counsel for revision petitioners would point out that, apparently, there is false implication. That, complaint is lodged due to annoyance. According to him, first allegations are levelled after six years of marriage and that there was no previous complaint of any sort anywhere. He also emphasized that, allegations are primarily general, omnibus and non specific and it is a clear attempt to rope the entire family with ulterior motive. According to him, as regards to section 498A of IPC is concerned, vague allegations are made. Further for attracting section 304 of IPC, he would point out that there is no material to show that in proximity to the incident, there was maltreatment in the backdrop of dowry demand, and therefore, said provisions would not attract. According to learned counsel, on

study of the entire charge-sheet, accusation being groundless, learned trial court ought to have allowed the application, but as it failed to do so, he urges to allow the revision.

In support of his contentions, learned counsel seeks reliance on the following rulings :

- (i) *Preeti Gupta and Another v. State of Jharkhand and Anr.*, (2010) 7 SCC 667;
- (ii) *Rajesh Sharma & Ors. v. State of Uttar Pradesh & Anr.*, (2018) 10 SCC 472;
- (iii) *Kailashben Mahendrabhai Patel and Ors. v. State of Maharashtra and Anr.*, AIR Online 2024 SC 638

4. Per contra, learned APP as well as learned counsel appointed for respondent no.2 informant would support the order of rejection by pointing out that, names of present applicants/revision petitioners are provided by informant in his First Information Report. That, accusations of ill treatment and demand are attributed to all in-laws for they being involved in. He pointed out that, nature of ill treatment is also spelt out in the FIR. He emphasized that, role of husband is crystallized for demanding remaining and unpaid dowry. He would further submit that, on the earlier night to the suicide by Sangita, she had developed contact with mother and had reported about demand and ill treatment. That, very next day, suicide is committed and as such, it is his submission that, there is

proximate link to the ill treatment and suicide, and thereby supports the order of rejection of discharge application.

5. In present proceedings by way of revision, powers of this court under section 397 read with section 401 of Cr.P.C. are invoked. Exception is taken to the order of learned Additional Sessions Judge rejecting application filed under section 239 of Cr.P.C. For ready reference the section is reproduced as under :-

“Section 239 : When accused shall be discharged -

If, upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.”

Powers under above provisions are to be invoked before recording of the evidence. As to the manner of exercise of evaluation at this stage, has been dealt by the Hon'ble Apex Court in the case of ***Onkar Nath Mishra and others v. State (NCT of Delhi) and another***, (2008) 2 SCC 561, wherein earlier judicial precedent has been taken into account i.e. in case of ***State of Maharashtra v. Som Nath Thapa*** 1996 4 SCC 659 and it was held that at this stage court is merely

expected to deduce a presumptive opinion regarding existence of factual ingredients constituting the offence allegedly committed. For useful reference, the observations of the three Judge Bench of the Hon'ble Apex Court in the case of ***Som Nath Thapa*** (Supra), are reproduced as under : (SCC p. 671, para 32).

“32... if on the basis of materials on record, a court could come to the conclusion that commission of the offence is a probable consequence, a case for framing of charge exists. To put it differently, if the court were to think that the accused might have committed the offence it can frame the charge, though for conviction the conclusion is required to be that the accused has committed the offence. It is apparent that at the stage of framing of a charge, probative value of the materials on record cannot be gone into; the materials brought on record by the prosecution has to be accepted as true at that stage.”

6. Thus, what section 239 of Cr.P.C. contemplates is to consider whether there is “ground” for presuming that offence has been committed and it is not to be tested whether ground for convicting the accused has been made out. In above provision, the term “groundless” assumes significance.

7. Yet, in the very recent judgment, the Hon'ble Apex Court in the case of ***State Through Deputy Superintendent of Police) v. R. Soundirarasu etc.***, 2022 (INSC) 915, has succinctly clarified the

scope and object of section 239 of Cr.P.C. and the relevant paragraph nos. 60 and 61 are as under :

*“60. Section 239 envisages a careful and objective consideration of the question whether the charge against the accused is **groundless** or whether there is ground for presuming that he has committed an offence. What Section 239 prescribes is not, therefore, an empty or routine formality. It is a valuable provision to the advantage of the accused, and its breach is not permissible under the law. But if the Judge, upon considering the record, including the examination, if any, and the hearing, is of the opinion that there is **"ground for presuming"** that the accused has committed the offence triable under the chapter, he is required by Section 240 to frame in writing a charge against the accused. The order for the framing of the charge is also not an empty or routine formality. It is of a far reaching nature, and it amounts to a decision that the accused is not entitled to discharge under Section 239, that there is, on the other hand, ground for presuming that he has committed an offence triable under Chapter XIX and that he should be called upon to plead guilty to it and be convicted and sentenced on that plea, or face the trial.”*

61. Section 239 of the CrPC lays down that if the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused. The word 'groundless', in our opinion, means that there must be no ground for presuming that the accused has committed

the offence. The word 'groundless' used in Section 239 of the CrPC means that the materials placed before the Court do not make out or are not sufficient to make out a prima facie case against the accused.”

In paragraph no. 63, it is concluded by observing that, in short, the word “groundless” means that, if no prima facie case regarding the commission of offence is made out, it would amount to a charge being groundless. In the same judgment, the Hon’ble Apex Court has taken into consideration its earlier judgment in the case of ***Century Spinning and Manufacturing Co. Ltd. v. State of Maharashtra***, AIR 1972 SC 545, consideration was given to the ambit of section 251(A)(2) of Cr.P.C., which was in *pari materia* with the wording used in section 239 of Cr.P.C. The relevant paragraph from the above referred judgment, is as under :

“It cannot be said that the Court at the stage of framing the charge has not to apply its judicial mind for considering whether or not there is a ground for presuming the commission of the offence by the accused. The order framing the charges does substantially affect the person's liberty and it cannot be said that the Court must automatically frame the charge merely because the prosecuting authorities by relying on the documents referred to in S. 173 consider it proper to institute the case. The responsibility of framing the charges is that of the Court and it has to judicially consider the question of

doing so. Without fully advertent to the material on the record it must not blindly adopt the decision of the prosecution."

In para 15, this Court has stated as:

"Under sub sec. (2), if upon consideration of all the documents referred to in S. 173, Criminal P.C. and examining the accused, if considered necessary by the Magistrate and also after hearing both sides, the Magistrate considers the charge to be groundless, he must discharge the accused. This subsection has to be read along with sub sec. (3), according to which, if after hearing the arguments and hearing the accused, the Magistrate thinks that there is ground for presuming that the accused has committed an offence triable under Chap.XXI of the Code within the Magistrate's competence and for which he can punish adequately, he has to frame in writing a charge against the accused. Reading the two subsections together, it clearly means that if there is no ground for presuming that the accused has committed an offence, the charges must be considered to be groundless, which is the same thing as saying that there is no ground for framing the charges."

(Emphasis supplied)

8. The above is the settled legal position, which is to be borne in mind while entertaining the application for discharge under section 239 of Cr.P.C. and the same is kept in mind while deciding the instant revision.

9. On undertaking the exercise of evaluation report filed by prosecution under section 173 of Cr.P.C. and on sifting it with above referred limited purpose, it is emerging that, marriage of deceased with revision petitioner no.1 is admittedly of 2010. Suicide is shown to be committed on 12.07.2016. Revision petitioner no.1 seems to be the husband, whereas revision petitioner nos. 2 and 3 seems to be his parents of husband, revision petitioner no. 4 seems to be brother of husband and revision petitioner no.5 seems to be sister-in-law i.e. wife of petitioner no.4. Having noted the status of the accused, at the threshold FIR is visited.

On carefully going through the FIR, it is alleged that, at the time of marriage, Rs.15,00,000/- cash was decided to be given, however, in view of financial capacity, only Rs.10,00,000/- were paid. After proper treatment to deceased Sangita for two years, informant alleges that, all above petitioners taunted deceased, saying that, they did not like her and remaining dowry of Rs.5,00,000/- has not been paid. She was made to eat stale food and not permitted sleep with husband. According to informant, there was continuous harassment. However, the contents of the FIR go to show that allegations of not liking her and seeking divorce on that ground and further beating and sending her to the matrimonial house apparently seem to be directed against husband only. As pointed out, role of parents-in-law,

brother-in-law and his wife is not specified in the FIR dated 12.07.2016. It is also stated in the report that, on the night of 11.07.2016, informant's wife was contacted by deceased on mobile and that time deceased weeping. She again narrated regarding demand of remaining amount of Rs.5,00,000/- and money for purchasing house being raised. But, again such contents to that extent in the FIR also seems to be directed only against husband.

10. Charge sheet shows that, almost after one and half months, supplementary statement of informant is recorded, wherein he added that, on 29.04.2016, son-in-law, revision petitioner no.1 was given a gold ring and a bracelet and understanding was given to the accused.

11. Statement of mother of deceased i.e. wife of informant, who allegedly had received phone call from deceased on the night earlier to the day of suicide, is also recorded, but surprisingly, it is not recorded promptly after lodgment of FIR dated 12.07.2016, but is shown to be recorded on 19.07.2016. She too in her above statement narrated that on 11.07.2016, around 9:30 p.m. to 10:00 p.m., she received phone call from her daughter and while weeping deceased allegedly told her that in-laws are again saying that her father is not paying remaining dowry amount and to ask her father to give further Rs.25,00,000/- for purchase of house as he has sufficient means. She

too stated that, husband said that, if the demand is not made, he would give divorce and then she claims to have learnt from daughter that other in-laws were harassing her and that all in-laws had beaten her. Such narration of beating by all in-laws, on the night earlier to the day of suicide, is not finding place in the FIR or supplementary statement. Be it so. Statements of siblings of deceased are also recorded and they are all almost identical. There are statements of also the persons, whose indulgence was allegedly sought for giving understanding to the accused, namely Manmathappa Maroti Kide, Ganpatrao Hippalgave and others, but on visiting their statements, they have given statement to police about learning regarding demand and ill treatment from father of deceased i.e. informant.

12. As stated above, it is to be tested as to whether there are grounds to make accused face charge and further trial. Taking survey of the FIR, supplementary statement and above statements, in the considered opinion of this court, as regards to parents-in-law, brother-in-law and his wife, there are no good ground to make them face charge or trial as at least in the charge sheet there is no prima facie case against them at all. As regards to husband is concerned, there are allegations in the FIR. Investigating machinery seems to have laid its hands on the CDR with regards to accusations of telephonic conversation between deceased and her mother on the earlier night to the day of suicide. As stated above, there are direct

allegations against husband. On the next day itself, deceased allegedly hanged herself. Therefore, as regards to husband is concerned, there is material to draw presumptive opinion. Consequently, this court is inclined to allow the revision only to the extent of revision petitioner nos.2 to 5. Hence, the following order is passed :

ORDER

- (i) Criminal Revision Application is partly allowed.
- (ii) As regards the husband - revision petitioner no.1, the Criminal Revision Application is hereby dismissed.
- (iii) The Criminal Revision Application is allowed to the extent of revision petitioner nos.2 to 5.
- (iv) The impugned common order dated 16.01.2024 passed by learned Additional Sessions Judge-1, Nanded below Exh.53, 54 and 55 in Sessions Case No.105 of 2016 is hereby quashed and set aside to the extent of revision petitioner nos.2 to 5 only.
- (v) Revision petitioner nos.2 to 5 stand discharged from the offence in the charge-sheet vide Sessions Case No.105 of 2016.
- (vi) Fees of learned Advocate, who is appointed to represent cause of respondent no.2 is to be paid by the High Court Legal Services Sub - Committee, Aurangabad as per rules.

(ABHAY S. WAGHWASE, J.)