

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 887 of 2020****With****CRIMINAL MISC.APPLICATION (FOR DIRECTION) NO. 1 of 2021
In R/CRIMINAL MISC.APPLICATION NO. 887 of 2020**

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PAAVANBHAI JAGDISHBHAI PANCHAL**Versus****STATE OF GUJARAT**

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Appearance:**MR ISHAN RAJDEV for MR.SANAT B PANDYA(6976) for the Applicant(s)****No. 1****MR MONTUBHAI G PATEL(9299) for the Respondent(s) No. 2****MR AMIT N CHAUDHARY(5599) for the Respondent(s) No. 2****MS MAITHILI MEHTA, APP for the Respondent(s) No. 1**

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CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI**Date : 04/08/2022****ORAL ORDER**

1 By way of this application under Section 482 of the Code of Criminal Procedure, 1973, the applicant has prayed for quashing and setting aside the impugned FIR being C.R.No.11209049200003 of 2020 registered with Talod Police Station, Sabarkantha for the offences punishable under Sections 498A, 323, 504, 114 and 506(2) of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

2 Heard Mr.Isan Rajdev, learned advocate for the applicant, Ms.Maithili Mehta, learned Additional

Prosecutor for respondent No.1 and Mr.Amit Chaudhary, learned advocate for respondent No.2.

3 By the consent of learned advocates for the parties, the matter is taken up for final hearing. Hence, issue rule. Ms.Maithili Mehta, learned Additional Prosecutor waives service of rule for respondent No.1 and learned advocate Mr.Amit Chaudhary waives service of rule for respondent No.2.

4 The respondent No.2 – original complainant filed the above FIR stating that she got marriage with Anil R. Panchal and after their marriage which took place on 7.7.2018 she delivered a baby girl. For about six months, their married life was good, but thereafter as the job of the husband of the complainant required him to stay at the place of job, he used to come once in a week to home and respondent No.2 used to stay with her in laws. The present applicant, who happens to be son of maternal uncle of the husband of the complainant used to visit matrimonial home of the complainant and along with other family members he used to taunt the complainant

that she got married by cheating and she has not brought anything which would suit the reputation of the family of the husband in the society. In the FIR, she has alleged about physical and mental torture by the in laws. However, in the entire FIR, there is only one sentence against the present applicant in respect of taunting the respondent No.2.

4.1 The aforesaid FIR is sought to be quashed and set aside by way of this application.

5 Mr.Ishan Rajdev, learned advocate for the applicant submits that barring one sentence involving the applicant, there is no allegation against the applicant in the FIR. The applicant happens to be son of maternal uncle of husband of the complainant. The only allegation against the applicant is verbal taunting to the complainant – respondent No.2 – original complainant and that also of absolutely general nature. There are no specific incidents alleged in the entire FIR. The present applicant is staying altogether in a different society at Talod and occasionally used to visit matrimonial home of

the complainant, and therefore, he has been falsely arraigned as an accused in the FIR, which is nothing but an abuse of process of law, and therefore, the impugned FIR in respect of the present applicant may be quashed and set aside.

6 Mr.Amit Chaudhary, learned advocate for the respondent No.2, vehemently opposed the petition by submitting that because of pendency of this application and as the relief has been granted in favour of the applicant, the Investigating Officer is not filing charge sheet even against the husband. He further submitted that the present applicant as well as other family members are protected. However, by misinterpreting the order of the Court, the Investigating Officer is not filing charge sheet even against the husband against whom, as per the information of learned advocate for respondent No.2, there is some material, and therefore, charge sheet is required to be filed against the husband. Learned advocate Mr.Chaudhary states that for seeking clarification and direction he has already preferred an application being Criminal Misc. Application No.1

of 2021 and thereby he has sought clarification that Investigating Officer is free to file charge sheet against the husband.

6.1 Though the aforesaid submissions were made by learned advocate Mr.Chaudhary and he vehemently opposed the application, but learned advocate Mr.Chaudhary could not point out from the record any material against the applicant. He, therefore, submits that in view of the material available on record, appropriate order be passed.

7 Ms.Maithili Mehta, learned Additional Public Prosecutor could not point out any material against the applicant and hence she also submitted that considering the facts and circumstances of the case and material available on record, appropriate order be passed.

8 Having heard learned advocates for the parties and on perusal of the record, it clearly appears that in the entire FIR there is only one sentence whereby some role has been attributed to the

applicant. In the FIR, it is stated that the applicant along with other family members used to taunt the respondent No.2. On perusal of FIR, it seems that the aforesaid allegation against the applicant is absolutely of general nature and as the applicant is not residing with the present applicant in the same house and in fact is staying at a different place. Further considering the fact that the applicant happens to be the distant relative of the husband of the complainant, it seems that the impugned order is nothing but an attempt to falsely implicate the applicant as accused just with a view to harass the applicant. The allegation against the applicant is purely of general in nature and considering the fact that the applicant stays at a different place, the registration of impugned FIR against the applicant is nothing but an abuse of process of law, and therefore, the same is required to be quashed and set aside.

9 Resultantly, the FIR being C.R.No.11209049200003 of 2020 registered with Talod Police Station, Sabarkantha and all consequential

proceedings arising thereof are hereby quashed, qua applicant. Rule is made absolute to the aforesaid extent. No order as to costs. Consequently, connected Criminal Misc. Application also stands disposed of.

P. SUBRAHMANYAM

(NIRZAR S. DESAI,J)

