

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1122 OF 2021

Smt. Vrushali Jayesh Kore
age 40 years, occ. service
R/o Queens Garden,
General Vidya Road,
Tq. & Dist. Pune

Applicant

Versus

1. The State of Maharashtra
Through it's Secretary
Home Department, Mantralaya,
Mumbai.

2. Sow. Deepali Bhushan More
age 30 years, occ. nil
R/o C/o Shivaji Pratapsing Patil
Gut No. 171, Bhairav Nagar,
Pimprala, Tq. & Dist. Jalgaon

Respondents

Mr. A. R. Devkate, Advocate for the applicant.
Mr. P. G. Borade, APP for the State.
Mr. T. K. Sant, Advocate for respondent No. 2.

**CORAM : SMT. ANUJA PRABHUDESSAI &
R. M. JOSHI, JJ.**

DATE : 7th JANUARY, 2023.

JUDGMENT :

1. This is an application under Section 482 of the Code of Criminal Procedure to quash the First Information Report in Crime No. 355/2020 dated 12th November, 2019 registered with Ramanand Police Station, Dist. Jalgaon and consequent criminal proceeding

being RCC No. 66/2021 pending on the file of learned Judicial Magistrate First Class, Jalgaon, for offences punishable under Sections 498A, 323, 504, 406, 506 read with Section 34 of the Indian Penal Code and Section 3 of the Dowry Prohibition Act.

2. Heard learned counsel for the applicant, learned APP for the State and learned counsel for respondent No. 2. We have perused the record and considered the submissions advanced by learned counsel for the respective parties.

3. The scope and power of the High Court to quash the First Information Report or criminal proceedings under Section 482 of the Code of Criminal Procedure is well settled.

The Hon'ble Supreme Court in State of Haryana and others vs. Bhajan Lal and others, AIR 1992 Supreme Court Cases 335 has laid down the guidelines that must be adhered to while exercising its inherent powers under Section 482 of the Code of Criminal Procedure to quash the First Information Report. The relevant paragraph reads thus :-

“ 102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this

Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a

just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code of the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is 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.

4. In Zandu Pharmaceutical Works Ltd. and others vs. Md. Sharaful Haque and others, **AIR 2005 SCC 9**, the Apex Court has reiterated thus :-

“8. ... It would be an abuse of process of the Court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers Court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of Court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the Court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant

has alleged and whether any offence is made out even if the allegations are accepted in toto.”

5. Since the First Information Report in question emanates from matrimonial dispute, it would be relevant to refer to the case of Kahkashan Kausar alias Sonam and Others vs. State of Bihar and others, **(2022) 6 SCC 599**, wherein the Apex Court has observed that *“incorporation of Section 498-A of I.P.C. was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid state intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as 498-A I.P.C. as instruments to settle personal scores against the husband and his relatives.”* The Apex Court, upon considering the previous judgments relating to quashment of F.I.R. in respect of offence punishable under Section 498-A of the I.P.C. has observed in paragraph no.17 thus,-

“17. ... this Court has at numerous instances expressed concern over the misuse of Section 498-A I.P.C. and the increased tendency of implicating relatives of the husband in

matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.”

6. Keeping the above proposition of law in mind, the crucial question for consideration is whether the accusations levelled against the applicant fall under any of the categories as enumerated in the case of Bhajan Lal (supra).

7. The applicant herein is a married sister of the husband of respondent No. 2. The marriage between respondent No. 2 and the brother of the applicant was solemnised on 19th April, 2019. Respondent No. 2 left the matrimonial home on 7th June, 2019. She lodged First Information Report on 12th November, 2019 against her husband, his parents and applicant herein alleging that they had subjected her to physical and mental cruelty within the meaning of Section 498A of the Indian Penal Code.

8. The First Information Report prima facie reveals that there is rift in marital ties between the respondent No. 2 and her husband, the brother of the applicant herein. The applicant has been dragged into the matrimonial dispute with allegations that -

i) On 18th May, 2019, she ordered Chicken Biryani for her brother but told respondent No. 2 to cook her own food.

ii) When respondent No. 2 had visited the applicant, she was told to get ready in an unused washroom.

iii) The applicant had told respondent No. 2 not to raise her voice against her parents.

iv) The applicant had phoned the brother of respondent No. 2 and told him that they should keep respondent No. 2 at her parental house at Jalgaon and that respondent No. 2 should seek divorce.

v) The applicant told the brother of respondent No. 2 that the behaviour of respondent No. 2 was not acceptable to them and that she should mend her ways to continue to live in the matrimonial home.

vi) The applicant, who is a Judicial Officer, ought to have intervened the dispute between the respondent No. 2 and her

husband impartially rather than being biased, supporting her brother and blaming her.

vii) The applicant posted a comment on her WhatsApp status congratulating her brother for finding a new girl in his life and advising him to forget the past and start a new life.

9. The aforesaid accusations even if taken at face value and accepted in their entirety, do not constitute any offence justifying investigation against the application. The case in our hand is fully covered by categories (1) and (3) as enumerated by the Apex Court in Bhajan Lal (supra). It is pertinent to note that unfounded criminal charges and long drawn criminal prosecution can have serious consequences. A person subjected to such litigation suffers immense mental trauma, humiliation and monetary loss. Reckless imputations can also result in serious repercussion on career progression and future pursuits and most importantly it stigmatizes reputation, brings disrepute and lowers the image of a person amongst friends, family and colleagues. It is to be noted that loss of character or bruised reputation cannot be restored even by judicial reprieve. As Shakespeare has famously said that "*Good name in man and woman, dear my lord, is the immediate jewel of their souls: Who steals my purse steals trash; 'tis something, nothing; 'twas*

mine, 'tis his, and has been slave to thousands: But he that filches from me my good name Robs me of that which not enriches him and makes me poor indeed." In legal parlance, right to reputation and dignity of an individual is held to be an integrated part of Articles 21 and 19(2) of the Constitution. Therefore, it is imperative for the Court to exercise power under Section 482 of the Code of Criminal Procedure, in fit cases, to safeguard and protect the rights of every person subjected to such litigation and prevent misuse of criminal process for personal vendetta.

10. As noted by us above, the First Information Report in question is a classic example wherein the family members of the husband have been implicated in proceedings under Section 498A of the Indian Penal Code as an instrument to settle personal score with the husband. The unfounded proceedings, qua the applicant, need to be quashed to prevent the abuse of the process of the Court, to protect the right of the applicant and thus to secure the ends of justice.

11. In the circumstances, application is allowed in terms of prayer clauses 'C' and 'C-1'. Consequently, First Information Report

bearing Crime No. 355/2020 dated 12th November, 2019 registered with Ramanand Police Station, Dist. Jalgaon for offences punishable under Sections 323, 504, 406, 504, 506 read with Section 34 of the Indian Penal Code and Section 3 of Dowry Prohibition Act and RCC No. 66/2021 pending on the file of learned Judicial Magistrate First Class, Jalgaon, stand quashed and set aside, qua the applicant.

(R. M. JOSHI)
Judge

(SMT. ANUJA PRABHUDESSAI)
Judge

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