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MCRC-8370-2023

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 3rd OF DECEMBER, 2024MISC. CRIMINAL CASE No. 8370 of 2023*DICKY RAM TIWARI AND OTHERS**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Raj Kumar Shrivastava - Advocate for applicants.

Dr. Anjali Gyanani - Public Prosecutor for respondent No.1/State.

Shri B.K. Sharma - Advocate for respondent No.2.

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ORDER

This application, under Section 482 of Cr.P.C., has been filed for quashment of FIR bearing Crime No.1318/2022 registered at Police Station Kotwali Morena, District Morena (M.P.) for offence punishable under Sections 498-A, 323, 294, 506, 34 of IPC and under Section 3/4 of Dowry Prohibition Act and all other consequential proceedings arising out of it.

2. It is submitted by counsel for applicants that earlier one M.Cr.C.No.58515/2022 was filed seeking similar relief but it was done without any authority from the applicants. Accordingly, by separate order passed today M.Cr.C. No.58515/2022 has been dismissed as it was filed without any authority.



3. The undisputed facts are that applicant No.1- D.R. Tiwari is husband, applicant No.2-V.R. Tiwari is elder brother-in-law (जेठ), applicant No.3- Smt. Meena Tiwari is mother-in-law, applicant No.4- Ram Babu Tiwari is father-in-law, applicant No.5- Smt. Sarla Dandotiya is sister of mother-in-law (मौसी) and applicant No.6- Banwari Lal Dandotiya is husband of respondent No.5.

4. Respondent No.2 has lodged an FIR alleging that in the year 2015 she got married to applicant No.1 as per Hindu rites and rituals. Her father had given cash amount of Rs.11,00,000/-, apart from household articles as per the list annexed with the FIR. After her marriage, she used to visit her matrimonial house. After one year of her marriage, she gave birth to one girl child, namely, Manaya Tiwari. Thereafter, applicants started expressing their anguish by alleging that they are not satisfied with the dowry given by her father. They were insisting that respondent No.2 should bring an additional amount of Rupees Five Lacs in cash and a Honda car. When she replied that financial condition of her father is not as such where he can give additional dowry, then applicants started abusing her filthily and also treated her with physical and mental cruelty. When she informed her parents about the cruelty meted out to her, then her parents also tried to convince and persuade applicants but they did not agree and were continuously harassing her mentally and physically. Earlier, she had also made a complaint in Police Station Baakad, District Pune (Maharashtra),



however, all the applicants are continuously abusing her filthily in the name of mother and sister and are insisting that she should bring additional dowry from her parents otherwise they will not keep her with them. Accordingly, FIR was lodged.

5. Challenging the FIR lodged by respondent No.2, it is submitted by counsel for applicants that it is well established principle of law that for prosecuting near and dear relatives of husband, allegations must be specific and clear. Vague and omnibus allegations are not sufficient to prosecute them. It is submitted that applicants No.5 and 6 have nothing to do with the family affairs of applicant No.1. It is submitted that applicant No.1 has instituted a petition for grant of divorce and only thereafter the FIR has been lodged by way of counterblast. It is also submitted that applicant No.1 has also lodged a criminal complaint against respondent No.2 as well as her father and brother for offence under Sections 384, 389, 323, 504 and 506 read with Section 34 of IPC.

6. *Per contra*, application is vehemently opposed by counsel for respondent No.2. It is submitted by counsel for respondent No.2 that so far as applicants No.5 and 6 are concerned, even their own daughter-in-law has lodged an FIR against them. By referring to FIR in Crime No.463/2021 registered at Police Station- Station Road Morena, District Morena, it is alleged that even real daughter-in-law of applicant No.5 and 6, namely, Neetu Dandotiya has lodged an FIR against applicants No.5 and 6 as well as her husband, namely, Prashant @



Bholu Dandotiya for offence punishable under Sections 498-A, 323, 294, 506 of IPC and under Section 3/4 of Dowry Prohibition Act. Furthermore, applicants No.5 and 6 were continuously interfering in day-today life of respondent No.2 which is evident from the complaint which has been filed by applicant No.1 and has been relied upon by him by filing copy of the same as Annexure A-3 along with this application. By referring to para 15 of the said complaint which has been filed in Pune it is pointed out by counsel for respondent No.2 that applicant No.5 has been cited as witness. It is submitted that if applicant No.5 is claimed to have witnessed the incident which took place in Pune then it is clear that she is regularly visiting the house of husband of respondent No.2 also at Pune. It is submitted that since the real daughter-in-law of applicants No.5 and 6 has also lodged a report for offence punishable under Section 498A of IPC therefore it is clear that applicants No.5 and 6 are of greedy nature and do not hesitate in committing atrocities on daughters-in-law (बहुयें) for satisfaction of their greed. So far as lodging of FIR after institution of divorce petition is concerned, it is submitted that merely because FIR was lodged after the institution of divorce petition, it cannot be said that FIR was lodged by way of counterblast. Only when respondent No.2 realized that things have gone too far and there is no possibility of reconciliation and her marital life is on the verge of break-down then if she decides to lodge FIR then at the most it can be said that respondent No.2 had shown patience and made



every effort to save her marital life. Allegations made against applicants No.1 to 4 are specific and thus it cannot be said that they are vague or general or omnibus in nature.

7. Heard learned counsel for the parties.

8. Applicants have relied upon one complaint case instituted by applicant No.1 in the court of Judicial Magistrate (F.C.)-Pune which has been placed on record as Annexure A-3. The said complaint was filed on 28.02.2020. In the said complaint, applicant No.1 has cited applicant No.5 as witness. As per the complaint lodged, incident took place in Pune. If applicant No.5 has been cited as a witness to that incident then it is clear that contention that applicant No.5 is residing separately having no interference in the life of applicants is prima facie false. If applicant No.5 claims herself to be an eyewitness of incident which took place in Pune then it is clear that she has been regularly visiting the house of applicant No.1 at Pune. Therefore, it cannot be said that merely because applicant No.5 is the sister of applicant No.3/Mother-in-law (मौसी सास) of respondent No.2, therefore, she cannot be presumed to be interfering in the marital life of respondent No.2. Furthermore, real daughter-in-law of applicant No.5 and 6, namely, Neetu Dandotiya has also lodged an FIR against them which has been registered at Crime No.463/2021 at Police Station- Station Road Morena, District Morena (M.P.). Similarly, Neetu Dandotiya has also lodged FIR in Crime No.768/2022 against applicants No.5 and 6 for offence under



Sections 323, 294, 506, 34. In FIR No.768/2022 there are specific allegations that when Neetu Dandotiya went to her matrimonial house then apart from applicants No.5 and 6, applicant No.3 Smt. Meena Tiwari who is mother-in-law of respondent No.2 was also present in the house. Therefore, it is clear that applicants No.3 and 5 who are real sisters are interfering in the family affairs of each other's family and prima facie treating their daughters-in-law with cruelty. The allegations against applicants are specific and clear. So far as submission made by counsel for applicants that FIR in question was lodged after institution of application under Section 13 of Hindu Marriage Act is concerned, the law is very clear in this regard. Supreme Court in the case of **Pratibha v. Rameshwari Devi**, reported in (2007) 12 SCC 369 has held as under:-

"14. From a plain reading of the findings arrived at by the High Court while quashing the FIR, it is apparent that the High Court had relied on extraneous considerations and acted beyond the allegations made in the FIR for quashing the same in exercise of its inherent powers under Section 482 of the Code. We have already noted the illustrations enumerated in Bhajan Lal case [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] and from a careful reading of these illustrations, we are of the view that the allegations emerging from the FIR are not covered by any of the illustrations as noted hereinabove. For example, we may take up one of the findings of the High Court as noted hereinabove. The High Court has drawn an adverse inference on account of the FIR being lodged on 31-12-2001 while the appellant was forced out of the matrimonial home on 25-5-2001.

15. In our view, in the facts and circumstances of



the case, the High Court was not justified in drawing an adverse inference against the appellant wife for lodging the FIR on 31-12- 2001 on the ground that she had left the matrimonial home at least six months before that. This is because, in our view, the High Court had failed to appreciate that the appellant and her family members were, during this period, making all possible efforts to enter into a settlement so that Respondent 2 husband would take her back to the matrimonial home. If any complaint was made during this period, there was every possibility of not entering into any settlement with Respondent 2 husband.

16. It is pertinent to note that the complaint was filed only when all efforts to return to the matrimonial home had failed and Respondent 2 husband had filed a divorce petition under Section 13 of the Hindu Marriage Act, 1955. That apart, in our view, filing of a divorce petition in a civil court cannot be a ground to quash criminal proceedings under Section 482 of the Code as it is well settled that criminal and civil proceedings are separate and independent and the pendency of a civil proceeding cannot bring to an end a criminal proceeding even if they arise out of the same set of facts. Such being the position, we are, therefore, of the view that the High Court while exercising its powers under Section 482 of the Code has gone beyond the allegations made in the FIR and has acted in excess of its jurisdiction and, therefore, the High Court was not justified in quashing the FIR by going beyond the allegations made in the FIR or by relying on extraneous considerations.

22. For the reasons aforesaid, we are inclined to interfere with the order of the High Court and hold that the High Court in quashing the FIR in the exercise of its inherent powers under Section 482 of the Code by relying on the investigation report and the findings made therein has acted beyond its jurisdiction. For the purpose of finding out the commission of a cognizable offence, the High Court was only required to look into the allegations made in the complaint or the FIR and to conclude whether a prima facie offence had been made out by the complainant in the FIR or the complaint or not."



9. Thus, it is clear that the findings recorded by criminal court are not binding on civil court and vice versa. Both the cases are to be decided on their own merits. If wife maintains patience and silence with solitary intention to save her matrimonial life, then it cannot be said that it was her weakness. On the contrary, it shows her sincerity towards her marital life. If after realizing that her in-laws have gone to such an extent where reconciliation is not possible and then daughter-in-law decides to lodge an FIR complaining about cruelty meted out to her, then it cannot be said that said FIR is a counterblast to the petition for divorce. Furthermore, from filing of complaint by applicant No.1 in the court of Judicial Magistrate (F.C.)-Pune which has been registered as Criminal M.A. No.245/2020, it is clear that relationship of applicant No.1 and respondent No.2 is not cordial. Even applicants are out and out to criminally prosecute respondent No.2 and her family members. Under these circumstances, this Court is of the considered opinion that in view of allegations made in the FIR and in the light of judgments passed by the Supreme Court in the cases of XYZ v. State of Gujarat reported in (2019) 10 SCC 337, State of Tamil Nadu Vs. S. Martin & Ors. reported in (2018) 5 SCC 718, Ajay Kumar Das v. State of Jharkhand, reported in (2011) 12 SCC 319, Mohd. Akram Siddiqui v. State of Bihar reported in (2019) 13 SCC 350, State of A.P. v. Gourishetty Mahesh reported in (2010) 11 SCC 226, M. Srikanth v. State of Telangana, reported in



(2019) 10 SCC 373, CBI v. Arvind Khanna reported in (2019) 10 SCC 686, State of MP Vs. Kunwar Singh by order dated 30.06.2021 passed in Cr.A. No.709/2021, Munshiram v. State of Rajasthan, reported in (2018) 5 SCC 678, Teeja Devi v. State of Rajasthan reported in (2014) 15 SCC 221, State of Orissa v. Ujjal Kumar Burdhan, reported in (2012) 4 SCC 547, S. Khushboo v. Kanniammal reported in (2010) 5 SCC 600, Sangeeta Agrawal v. State of U.P. , reported in (2019) 2 SCC 336, Amit Kapoor v. Ramesh Chander reported in (2012) 9 SCC 460, Padal Venkata Rama Reddy Vs. Kovuri Satyanarayana Reddy reported in (2012) 12 SCC 437 and M.N. Ojha v. Alok Kumar Srivastav reported in (2009) 9 SCC 682, this Court can quash the proceedings only if the uncontroverted allegations do not make out an offence. Furthermore, this Court in exercise of powers under S.482 of Cr.P.C. (S.528 of BNSS) cannot conduct a roving enquiry to hold as to whether the allegations made in the FIR are correct or not.

10. Accordingly, this Court is of considered opinion that allegations made in FIR are sufficient to prosecute the applicants.

11. *Ex consequenti*, application fails and is hereby *dismissed*.

(G. S. AHLUWALIA)
JUDGE

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