

Kailashben Mahendrabhai Patel vs The State Of Maharashtra on 25 September, 2024

Author: Pamidighantam Sri Narasimha

Bench: Pankaj Mithal, Pamidighantam Sri Narasimha

2024 INSC 737

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 4003/2024
ARISING OUT OF SLP (CRL) No. 4044 of 2018

KAILASHBEN MAHENDRABHAI PATEL
& ORS.

... APPELLANT(S)

VERSUS

STATE OF MAHARASHTRA & ANR.

... RESPONDENT(S)

JUDGMENT

PAMIDIGHANTAM SRI NARASIMHA, J.

1. Leave granted.

2. This criminal appeal is against the dismissal of a petition under Section 482 of the CrPC to quash the FIR and the subsequent chargesheet against the appellants herein. By order dated 01.05.2018, this Court issued notice in the Special Leave Petition and stayed the criminal proceedings. The short and necessary facts for disposal of this criminal appeal are as follows.

3. Respondent no. 2 is the complainant. She was married to one Niraj Mahendrabhai Patel in 2002, and he is not a party in these proceedings. On 01.03.2013, the complainant filed a complaint, pursuant to which an FIR was registered on 25.03.2013 at P.S. Jalna, Maharashtra under Sections 498A, 323, 504, 506 read with Section 34 IPC against the appellants, who are her step mother-in-law (appellant no. 1), step brother-in-law (appellant no. 2), father-in-law (appellant no. 3), and the Munim (appellant no. 4). The chargesheet in this case was filed on 30.07.2013.

4. A precise but accurate description of the allegations in the FIR are that, i) her husband is the son of the appellant no. 3 and his late first wife. Thereafter, the appellant no. 3 married appellant no. 1 and their son is appellant no. 2. She lived with her husband, son and daughter in Mumbai, from where her husband was managing the family business by giving complete accounts to the family, ii) at the time of marriage her father gave certain articles and cash as dowry, and iii) she also held a joint locker at a bank in Anand, Gujarat with appellant no. 1, keys to which were kept by appellant

no. 1 alone. iv) At the time of the birth of her daughter, which was eight years before the complaint, appellant nos. 1 and 3 visited her at the hospital and threatened to deprive her of a share in the property and refused to return the gold and silver ornaments that were kept in the locker. v) About 2-4 months after the delivery, when she returned to her matrimonial house in Mumbai, appellant nos. 1 and 3 initially refused to take her and later deprived her of food and physically assaulted her. vi) Even when her son was born, which was four years before the complaint, appellants no. 1 to 3 visited her at Jalna and threatened to deprive her and her husband any share in the property. vii) She has also alleged that appellant no. 2 hindered her daughter's education by cancelling her school admission. viii) Against appellant no. 4, who is the Munim, she has alleged that he threatened her that the family property only belongs to appellant no. 2 and that the complainant, and her husband will have no share in it. ix) Under these circumstances, being frightened, she left the house of the appellants along with her husband and children and started living in Jalna, her parental home. x) Even at Jalna, the accused persons threatened her and asked her to bring Rs. 50,00,000/- for the future of her son and daughter. There is danger to her life and also to the life of her husband and children and therefore the complaint on 01.03.2013. The FIR was registered on 25.03.2013, and chargesheet came to be filed on 30.07.2013.

5. The appellants filed a petition under Section 482 of the CrPC, 1973 for quashing the FIR dated 25.03.2013 and the chargesheet dated 30.07.2013. By the order impugned herein, the High Court held that a prima facie case of cruelty is made out under Section 498A. The High Court also observed that the complainant specifically referred to instances of cruelty and attributed overt acts to each appellant. Rejecting the contention of the appellants that neither the Police Station, nor the Courts will have jurisdiction, the Court held that Jalna would have jurisdiction as per Sections 178 and 179 of the CrPC as some part of the offence was committed there.

6. The appellants have preferred the present appeal against the High Court's order. While issuing notice on 01.05.2018, this Court also stayed further proceedings.

7. We have heard Dr Abhishek Manu Singhvi and Mr Sidharth Luthra, learned senior counsels for the appellants and Mr. Shrirang B Varma, learned counsel for the State of Maharashtra and Mr. Sanjeev Despande, learned senior counsel for respondent no. 2.

7.1 The learned senior counsels for the appellants have contended that the allegations in the FIR are general and omnibus in nature and lack material particulars bereft of any details, rendering the complaint vague and obscure. There is an existing civil dispute between the father and the son and as such this FIR is an abuse of the process of criminal law. Further, Section 161 statements of witnesses are identical and are based on information from respondent no. 2. They are vague and do not have material particulars about the date and time of the incident. Our attention is also drawn to the judgment and order dated 16.01.2019, passed by the Judicial Magistrate First Class, Jalna dismissing identical allegations, but under Section 12 of the Domestic Violence Act. On the other hand, the learned counsel for the respondent supported the decision and reasoning adopted by the High Court.

8. Analysis: After identifying certain allegations in the Complaint/FIR, the High Court came to a quick conclusion that there are specific allegations against each of the accused. After referring to certain precedents on the scope and ambit of the power under Section 482 CrPC, the High Court came to a conclusion that exercise of power under Section 482 for quashing an FIR/Complaint is not warranted in the facts and circumstances of the case. Beyond holding that there are specific allegations, there is no other analysis. The duty of the High Court, when its jurisdiction under Section 482 CrPC or Article 226 of the Constitution is invoked on the ground that the Complaint/FIR is manifestly frivolous, vexatious or instituted with ulterior motive for wreaking vengeance, to examine the allegations with care and caution is highlighted in a recent decision of this Court in *Mohammad Wajid and Another v. State of U.P. and Others*:

“34. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRS assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.” 2023 SCC OnLine SC 951.

8.1 Keeping in mind the broad principle as enunciated in the above referred precedent, we will now examine the Complaint/FIR challenged by the appellants in the Section 482 proceeding.

9. The FIR in this case is rather unique, in as much as the complainant has chosen not to involve her husband in the criminal proceedings, particularly when all the

allegations relate to demand of dowry. It appears that the complainant and her husband have distributed amongst themselves, the institution of civil and criminal proceedings against the appellants. While the husband institutes the civil suit, his wife, the complainant has chosen to initiate criminal proceedings. Interestingly, there is no reference of one proceeding in the other. On 27.02.2013, the husband filed the Special Civil Suit No. 35 of 2013 in Anand against the three appellants, i.e. his father, stepmother and stepbrother seeking for a declaration that the property is ancestral in nature and that the father has no right to alienate or dispose of the property. In that suit the husband also sought a declaration that he is entitled to use the trademark of the family business. Though the written statement filed by the appellants in the suit is brought on record, we are not inclined to examine the details of the civil dispute, but suffice to note the existence of a highly contentious civil dispute between the complainant's husband at one hand and her father-

in-law and others on the other hand.

9.1 While the husband chose to institute the civil suit on 27.02.2013, the complainant filed the present criminal complaint on 01.03.2013 alleging demand of dowry and threat by appellants that she and her husband will be denied a share in the property. The provocation for the Complaint/FIR is essentially the property dispute between father and son.

9.2 Further, the rights and claims in the suit are the very basis and provocation for filing the criminal cases. The Complaint/FIR is replete with just one theme i.e. that the appellants are threatening them that they will deny share in the property. The Complaint/FIR is intended only to further their interest of the civil dispute. In *G. Sagar Suri v. State of U.P* 2 this Court cautioned that:

“8. Jurisdiction under Section 482 of the Code has to be exercised with great care. In exercise of its jurisdiction the High Court is not to examine the matter superficially. It is to be seen if a matter, which is essentially of a civil nature, has been given a cloak of criminal offence.

Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which the High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice.”

(2000) 2 SCC 636.

9.3 The duty of the court, when FIR has predominating and overwhelming civil flavour is also reflected in the opinion of this Court in *Jaswant Singh v. State of Punjab* 3, this court observed that:

"19. From the above discussion on the settled legal principles, it is clear from the facts of the present case that there was a clear abuse of the process of the Court and further that the Court had a duty to secure the ends of justice. We say so for the following reasons;

a) The allegations made in the FIR had an overwhelmingly and predominatingly a civil flavour inasmuch as the complainant alleged that he had paid money to Gurmeet Singh, the main accused to get employment for his son abroad. If Gurmeet Singh failed the complainant could have filed a suit for recovery of the amount paid for not fulfilling the promise.

...

20. In our considered view, the High Court erred in firstly not considering the entire material on record and further in not appreciating the fact that the dispute, if any, was civil in nature and that the complainant had already settled his score with the main accused Gurmeet Singh against whom the proceedings have been closed as far back as 26.09.2014. In this scenario, there remains no justification to continue with the proceedings against the appellant."

10. We will now examine the 'specific allegations' in the FIR/complaint. Firstly, the complainant referred to certain items which are said to have been given by her father at the time of marriage. These items are (i) one Scorpio car; (ii) T.V.; (iii) fridge;

(iv) DVD Tape; (v) silver utensils; (vi) 100 to 150 tolas gold; (vii) and 2021 SCC OnLine SC 1007.

Rs. 5 lacs. This allegation relates to the year 2002 and the present complaint is of the year 2013. It is important to mention at this very stage that identical allegations in a DV case filed by the complainant were taken up at trial and the Judicial Magistrate, First Class had disbelieved the complainant's version. We will be dealing with the judgment of the Judicial Magistrate, First Class in little more detail in the succeeding paras of the judgment. The second allegation relates to a bare statement that there exists a joint locker and that the keys of the said locker are with her stepmother-in-law, that is the appellant no. 1. Even on this, the Judicial Magistrate, First Class has observed that there are no details whatsoever, about the bank or the locker. 10.1 The tendency to make general, vague, and omnibus allegation is noticed by this Court in many decisions. In *Usha Chakraborty v. State of W.B.* 4, this court observed that:

"16... the respondent alleged commission of offences under Sections 323, 384, 406, 423, 467, 468, 420 and 120B, IPC against the appellants. A bare perusal of the said allegation and the ingredients to attract them, as adverted to hereinbefore would reveal that the allegations are vague and they did not carry the essential ingredients to constitute the alleged offences.... The ingredients to attract the alleged offence referred to hereinbefore and the nature of the allegations contained in the application filed by the respondent would undoubtedly make it clear that the respondent had failed to make specific allegation against the appellants herein 2023 SCC OnLine SC

90.

in respect of the aforesaid offences. The factual position thus would reveal that the genesis as also the purpose of criminal proceedings are nothing but the aforesaid incident and further that the dispute involved is essentially of civil nature. The appellants and the respondents have given a cloak of criminal offence in the issue ...”

10.2 Similarly, dealing with allegations lacking in particulars and details, in *Neelu Chopra v. Bharti*⁵, this court observed that:

"7. ...what strikes us is that there are no particulars given as to the date on which the ornaments were handed over, as to the exact number of ornaments or their description and as to the date when the ornaments were asked back and were refused. Even the weight of the ornaments is not mentioned in the complaint and it is a general and vague complaint that the ornaments were sometime given in the custody of the appellants and they were not returned. What strikes us more is that even in Para 10 of the complaint where the complainant says that she asked for her clothes and ornaments which were given to the accused and they refused to give these back, the date is significantly absent."

11. The third allegation is against appellant no. 1, the mother-in-law, who is said to have threatened the complainant when she gave birth to a girl child. The threat is that the complainant will not get her gold and silver ornaments, and her husband will not get any share in the property. The allegations are again vague, lacking in basic details. The essence of the complaint is in the alleged threat to deprive the husband any share in the property with respect to which the husband has already filed the suit for declaration. (2009) 10 SCC 184.

12. The complaint also refers to a small incident where the complainant's brother accompanied her to the matrimonial house, when the appellants no. 1 and 3 are alleged to have refused to take her back but on persuasion by her brother, she was allowed to stay. There is also a vague allegation that, when the complainant gave birth to a second child, appellants 1 and 2 came and "quarrelled" with the complainant, her brother, parents and threatened them. This Court had occasion to examine the phenomenon of general and omnibus allegations in the cases of matrimonial disputes. In *Mamidi Anil Kumar Reddy v. State of A.P.* 6 this Court observed that:

"14. ...A bare perusal of the complaint, statement of witnesses' and the charge-sheet shows that the allegations against the Appellants are wholly general and omnibus in nature; even if they are taken in their entirety, they do not prima facie make out a case against the Appellants. The material on record neither discloses any particulars of the offences alleged nor discloses the specific role/allegations assigned to any of the Appellants in the commission of the offences.

15. The phenomenon of false implication by way of general omnibus allegations in the course of matrimonial disputes is not unknown to this Court. In *Kahkashan Kausar alias Sonam v. State of Bihar*, this Court dealt with a similar case wherein the

allegations made by the complainant-wife against her in-

laws u/s. 498A and others were vague and general, lacking any specific role and particulars. The court proceeded to quash the FIR against the accused persons and noted that such a situation, if left unchecked, would result in the abuse of the process of law.” 2024 SCC OnLine SC 127.

13. There is also an allegation against the appellant no. 2 about which the complainant passingly mentioned that “my daughter’s education disturbed since my brother-in-law Rahul cancelled her school admission by signing fraudulently”. The complaint is again silent about when such an act was done, where was it done, which was the school in which the admission was cancelled, what documents were signed for such cancellation, and what is fraud played by him. It is impossible to conceive of any offence on the basis of such vague and unclear allegations. Lastly, there is an allegation against the appellant no. 4, the Munim against whom it is said “Vijay Ranchhodbhai Patel is telling stories to my in-laws against me, my husband and my children and making them to mentally torture us”. The Munim is said to have threatened them and ask them to go away as there is nothing left for them as the entire property belongs to Rahul, appellant no. 2. 13.1 In *Kahkashan Kausar v. State of Bihar*⁷ this Court noticed the injustice that may be caused when parties are forced to go through tribulations of a trial based on general and omnibus allegations. The relevant portion of the observation is as under:

“11. ...in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection (2022) 6 SCC 599.

and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as Section 498-A IPC as instruments to settle personal scores against the husband and his relatives.

18. ... upon a perusal of the contents of the FIR dated 1-4- 2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that "all accused harassed her mentally and threatened her of terminating her pregnancy". Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can at best be said to have been made out on account of small skirmishes... However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.

21. ...it would be unjust if the appellants are forced to go through the tribulations of a trial i.e. general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this Court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must, therefore, be discouraged.”

14. One important event that gives us a clear impression that the criminal proceedings were instituted with a mala fide intention, only to harass the appellants, is the filing of the Domestic Violence case. After the institution of the Civil Case on 27.02.2013 and thereafter the present Criminal Complaint/FIR, respondent no. 2 filed a complaint under Section 12 of the Domestic Violence Act on 06.04.2013, based on similar allegations. The DV complaint refers to the same items, a Scorpio car, T.V., fridge, DVD Tape, silver articles, 100 to 150 tolas gold and cash of Rs. 5 lacs as dowry. Again, there is an allegation that the accused have threatened that she will not get a share in the property as she gave birth to a girl child. There are similar allegations against appellant no. 2 as well as the Munim, the appellant no. 4. The domestic violence complaint went to trial and culminated in a detailed judgment of the Judicial Magistrate, First Class, Jalna dated 16.01.2019. We are informed that the judgment and order has become final as there was no appeal against the said order. While dismissing the domestic violence complaint, the learned judge observed as under:

“19. During cross examination, the applicant admitted that the property dispute is going on in between her and respondents. Again, she voluntarily stated that the property dispute is pending in between her husband and parents in law. Moreover, the applicant appears deposed specifically that where ever Joint Bank Accounts are in the name of respondents, her and her husband, in such cases, respondents shall be prohibited from operation said accounts and she shall be allowed to operate. It further appears that the applicant family shall be provided same level of accommodation as holding by respondents.

20. The above ocular evidence and admission are clearly suggesting that the applicant has brought the present application at the behest of her husband and with ulterior motive to grab property which the husband of the applicant may be entitled by other provisions of law. The wordings used in the application reveal selfish nature of the applicant. Hence, in the given circumstances, I am of opinion that it would be unsafe to rely on the sole testimony of the applicant without corroboration.

21. It seems that the applicant has not brought any other cogent and reliable evidence in support of her said oral evidence. Moreover, it appears that the case filed U/s 498(A) of IPC bearing RCC No. 376/2014 is not yet concluded. There is no record showing that respondents have been held guilty till today in that matter. It means that said allegations are not yet proved and not available for corroboration purpose.

Therefore, I am coming to the conclusion that there is no cogent and reliable evidence as to domestic violence and accordingly I record my finding to Point No. 1 as “No”.

15. We are not referring to all the findings of the Court dismissing the domestic violence complaint. It is sufficient to note that identical allegations were examined in detail, subjected to strict scrutiny, and rejected as being false and untenable. This case is yet another instance of abuse of criminal process and it would not be fair and just to subject the appellants to the entire criminal law process. In Achin Gupta v. State of Haryana 8, this court observed that:

"20. It is now well settled that the power under Section 482 of the Cr. P.C. has to be exercised sparingly, carefully and with caution, only where such exercise is justified by the tests laid down in the Section itself. It is also well settled that Section 482 of the Cr. P.C. does not confer any new power on the High Court but only saves the inherent power, which the Court possessed before the enactment of the Criminal Procedure Code. There are three circumstances under which the inherent jurisdiction may be exercised, namely (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of Court, and iii) to otherwise secure the ends of justice.

21. ...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, the court would be justified to quash any proceeding if it finds that the initiation or continuance of it amounts to abuse of the process of court 2024 SCC OnLine SC 759.

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.

36. For the foregoing reasons, we have reached to the conclusion that if the criminal proceedings are allowed to continue against the Appellant, the same will be nothing short of abuse of process of law & travesty of justice. This is a fit case wherein, the High Court should have exercised its inherent power under Section 482 of the Cr. P.C. for the purpose of quashing the criminal proceedings."

16. It is submitted on behalf of the respondent that after investigation, charge sheet has already been filed and that this Court should not interfere with the judgment of the High Court. The chargesheet is on record and we have examined it carefully, it simply reproduces all the wordings of the complaint. There is nothing new even after investigation, the allegations made in the FIR/complaint are exactly the allegations in the charge sheet. Even otherwise, the position of law is well entrenched. There is no prohibition against quashing of the criminal proceedings even after the charge sheet has been filed. In Anand Kumar Mohatta v. State (NCT of Delhi)⁹.

"14. First, we would like to deal with the submission of the learned Senior Counsel for Respondent 2 that once the charge- sheet is filed, petition for quashing of FIR is untenable. We do not see any merit in this submission, keeping in mind the position of this Court in Joseph Salvaraj A. v. State of Gujarat...

(2019) 11 SCC 706.

15. Even otherwise it must be remembered that the provision invoked by the accused before the High Court is Section 482 CrPC and that this Court is hearing an appeal from an order under Section 482 CrPC....

16. There is nothing in the words of this section which restricts the exercise of the power of the Court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It is settled principle of law that the High Court can exercise jurisdiction under Section 482 CrPC even when the discharge application is pending with the trial court. Indeed, it would be a travesty to hold that proceedings initiated against a person can be interfered with at the stage of FIR but not if it has advanced and the allegations have materialised into a charge-sheet. On the contrary it could be said that the abuse of process caused by FIR stands aggravated if the FIR has taken the form of a charge-sheet after investigation. The power is undoubtedly conferred to prevent abuse of process of power of any court."

Similar view is taken by this Court in Joseph Salvaraj A. v. State of Gujarat¹⁰; A.M. Mohan v. State¹¹; Mamta Shailesh Chandra v. State of Uttarakhand ¹².

17. Having considered the matter in detail, we are of the opinion that none of the ingredients of Sections 498A, 323, 504, 506 read with Section 34 IPC are made out. We have no hesitation in arriving at the conclusion that if the criminal proceedings are allowed to continue against the appellants, the same will be nothing short of abuse of process of law and travesty of justice. Though the appellants have also argued on the ground that Jalna (2011) 7 SCC 59.

2024 SCC OnLine SC 339.

2024 SCC OnLine SC 136.

Police Station and the Chief Judicial Magistrate, Jalna did not have jurisdiction, we are not inclined to examine that position in view of our finding that the Complaint/FIR and the chargesheet cannot be sustained.

18. For the reasons above mentioned, we allow the present appeal, set aside the impugned judgment and order of the High Court in Criminal Application No. 4015 of 2014 dated 05.05.2017, and quash FIR dated 25.03.2013 bearing Crime No. 81/2013 filed under Sections 498A, 323, 504, 506 read with Section 34 IPC at P.S. Jalna and the chargesheet dated 30.07.2013 bearing Chargesheet No. 123/2013 in the above FIR.

.....J. [PAMIDIGHANTAM SRI NARASIMHA]J.
[PANKAJ MITHAL] NEW DELHI;

September 25, 2024.