

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.2474 OF 2022

Pradip s/o. Ukhaji Naik and ors.	..Applicants
Vs.	
The State of Maharashtra and anr.	..Respondents

Mr.K.G.Gaikwad, Advocate h/f. Mr.V.G.Deshmukh, Advocate for applicants

Mr.S.D.Ghayal, APP for respondent no.1

Mr.R.G.Joshi, Advocate for respondent no.2

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

DATE : JANUARY 02, 2023

ORDER :-

Heard finally with the consent of learned counsel for the respective parties.

This is an application under Section 482 of the Code of Criminal Procedure for quashing the FIR bearing Crime No.0103 of 2021, registered with Jafrabad Police Station, Dist. Jalna, for the offence punishable under Section 306 read with Section 34 of Indian Penal Code, Sections 3 and 4 of the Dowry Prohibition Act and Section 66A of the Information Technology Act, 2000 as well as criminal proceedings, i.e. Sessions Case No.93 of 2022, pending before learned Addl. Sessions Judge, Jalna.

2. Heard learned counsel for the applicants, learned APP learned for respondent no.1 and learned counsel for respondent no.2. We have perused the record and considered the submissions.

3. The crime against the applicants and others was registered pursuant to the FIR lodged by Mangalabai, widow of the deceased Sudhakar. Perusal of the FIR reveals that the marriage of the daughter of the complainant was fixed with applicant no.1. The engagement was performed on 29.04.2021 and marriage was scheduled on 25.05.2021. The complainant has alleged that on 02.05.2021, applicant no.5 – Alka (married sister of applicant no.1) had phoned deceased Sudhakar and demanded dowry. It is alleged that the deceased Sudhakar paid Rs.50,000/- to applicant no.4, husband of applicant no.5. It is alleged that on 07.05.2021, applicant nos.3 and 4 demanded remaining amount of dowry of Rs.50,000/- and told that event of failure to pay the same, the marriage would not be performed. It is further stated that on 09.05.2021, there was a meeting between the deceased – Sudhakar and the family of applicant no.1. On returning home, Sudhakar informed the complainant that the applicants had called off the marriage. The deceased Sudhakar appeared to be disturbed. He

left the house by stating that he was going to the bank but he did not return home. Lateron, the complainant learnt that Sudhakar committed suicide by hanging himself in an agricultural field.

4. The FIR states that the complainant learnt that at the meeting held on 09.05.2021, the applicants had informed the deceased that the co-accused Santosh Payghan had showed them his photographs and video clip with the daughter of the complainant. The applicants had called off the marriage because of the said photographs and the video clip. On the basis of these allegations, the FIR bearing Crime No.0103 of 2021 came to be registered against the applicants and other co-accused.

5. As far as the offence punishable under Section 306 of I.P.C. is concerned, in order to constitute an offence of abetment of suicide, there must be intention of the accused to aid, abet or instigate the deceased to commit suicide. The record *prima facie* indicates that applicant no.1 and his family members called off the marriage because of the photographs and video clip circulated by the co-accused Santosh Payghan. Being embarrassed by this situation, Sudhakar had committed suicide. Thus, the material on record does not indicate that the applicants had intentionally instigated or aided

the deceased to commit suicide. Such an act, though unfortunate, would not constitute offence under Section 306 of I.P.C., particularly, in the absence of any material to show that the applicants herein abetted suicide for meeting Section 107 of I.P.C. Further, there is no material on record to indicate involvement of any of the applicants for offence punishable under Section 66A of the Information Technology Act. Under such circumstances, continuation of the proceedings against the applicants for the offence punishable under Section 306 of I.P.C. and 66A of the Information Technology Act will be abuse of the process of law.

6. As regards the offences under Sections 3 and 4 of the Dowry Prohibition Act, there is no material on record to indicate that applicant no.1 – Pradip and applicant no.2 – Dipak had demanded dowry. The allegations in this regard are only against applicant nos.3, 4 and 5. Hence, continuation of the proceeding against the applicant no.1 for the offences under Sections 3 and 4 of the Dowry Prohibition Act will be abuse of the process of the law.

7. Hence the following order:-

(i) The application is partly allowed.

(ii) The FIR bearing Crime No.0103 of 2021, registered with Jafrabad Police Station, Dist. Jalna, as well as the criminal proceedings, i.e. Sessions Case No.93 of 2022, pending before learned Addl. Sessions Judge, Jalna, are quashed and set aside as against applicant nos.1 and 2.

(iii) The FIR bearing Crime No.0103 of 2021, registered with Jafrabad Police Station, Dist. Jalna, as well as the criminal proceedings, i.e. Sessions Case No.93 of 2022, pending before learned Addl. Sessions Judge, Jalna, are quashed and set aside also as against applicant nos.3, 4 and 5, only in respect of the offence punishable under Section 306 read with Section 34 of Indian Penal Code and Section 66A of the Information Technology Act, 2000.

(iv) The trial Court can proceed against applicant nos.3, 4 and 5 in respect of the offences under Sections 3 and 4 of the Dowry Prohibition Act.

[R.M. JOSHI, J.]

[SMT. ANUJA PRABHUDESSAI, J.]

KBP