

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC. APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 6461 of 2022

=====

RAVINABEN SURESHBHAI PARMAR
Versus
STATE OF GUJARAT & ANR.

=====

Appearance:

MR PARTHIV A BHATT(5331) for the Applicant(s) No. 1
MR.HARDIK B SHAH(3751) for the Respondent(s) No. 2
MS CM SHAH APP for the Respondent(s) No. 1

=====

CORAM:HONOURABLE MR. JUSTICE ILESH J. VORA

Date : 27/02/2024

ORAL ORDER

1. By invoking inherent powers of this Court, the applicant-original accused, who are facing the charges for the offences of cruelty and demand of dowry have preferred this application for quashing of the **FIR being CR No.11191033220039 of 2022 registered with Meghaninagar Police Station, Ahmedabad**, for the offences 498A, 323, 114 of Indian Penal Code and under Sections 3 and 7 of the Dowry Prohibition Act.
2. The applicant is sister-in-law of the second respondent, against whom the aforesaid FIR for the act of cruelty and demand of dowry is being filed.

Admittedly, the marriage of the second respondent with accused no. 1 Krunal Parmar was solemnized on 30.01.2020. The second respondent wife is teacher serving at Palanpur, Dist.: Banaskantha. In the Covid time, she stayed at Ahmedabad and thereafter, except holidays, she used to stay at Palanpur. The husband is also a teacher. In the month of April, 2020, due to matrimonial discord with the husband, she left the matrimonial home and thereafter, she returned back on 22.06.2020 and then again, went to Palanpur for service. It is in this background facts, the questioned FIR for the act of cruelty was being filed by the private respondent against 6 persons, who are husband and his relatives, inter-alia alleging that, she has been harassed mentally and physically by the accused and was asked to bring jewelry from the parental home and also did not return the car, which was purchased by her and lastly, on 13.01.2022, when complaint is being made for withdrawal of the amount from the Bank, she was beaten by the husband and others and therefore, she constrained to file the questioned FIR for constant harassment and torture meted out by her.

3. This Court has heard learned counsel Mr. Parthiv Bhatt, Mr. H.B. Shah and Ms. C.M. Shah, learned Additional Public Prosecutor for the respondent State.

4. Mr. Parthiv Bhatt, learned counsel has submitted that, this is a case of false implication and in absence of specific allegations against any one of the applicant, except common and general allegations, no offence under Section 498A is made out. Thus, therefore, he would urge that, the implication of the applicant being made in a casual manner with oblique motive and same deserves to be quashed and set aside.
5. In the aforesaid contentions, the learned counsel Mr. Parthiv Bhatt, has submitted that, the FIR qua the applicant is absolutely false and frivolous and on reading of it, the offence of cruelty and demand of dowry is clearly not made out, as, the allegations are totally vague and general in nature and having been alleged with a view to harass the applicant and thus, therefore, the institution of the FIR, implicating the applicant, would amount to sheer abuse of process of law and court and same deserves to be quashed and set aside.
6. Mr. H. B. Shah and Ms. Chetna Shah, have jointly submitted that, the High Court at this stage, would not ordinarily entered into a disputed question of fact and therefore, when the allegations made in the FIR disclosed the commission of offence, the court may

not quash it and allowed the investigation to be continued in the matter.

7. The scope and power of the High Court to quash the first information report is well settled. The power under Section 482 of the Code has to be exercised sparingly and cautiously to prevent the abuse of process of Court and to secure the ends of justice. The High Court should refrain from giving a prima-facie decision, unless there are compelling circumstances to do so. Taking the allegations, as they are, without adding or subtracting anything, if no offence is made out, only then, the High Court would be justified in quashing the proceedings in the exercise of its power under Section 482 of the Cr.P.C.
8. The Apex Court in case of **State of Haryana vs. Bhajan Lal reported in (1992) Supp 1 SCC 335** has laid down the guidelines that must be adhered to while exercising inherent powers under Sections 482 of the Code to quash the criminal proceedings. 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 or the Act concerned (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 Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fides 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.”

9. Since the FIR in question emanates from matrimonial disputes. Recently, the Apex Court in case of **Kahkashan Kausar @ Sonam & Ors. Vs. State of Bihar & Ors. reported in (2022) 6 SCC 599** held and observed that, in recent times, matrimonial litigation in the country has increased significantly which led in an increased tendency to employ provision such as 498A Indian Penal Code as instruments to settled personal scores against the husband and his relatives. In para-17 of the judgment, it is observed that:

“17. this court has at numerous instances expressed concern over the misuse of section 498A IPC and the

increased tendency of implicating relatives of the husband in matrimonial disputes, without analyzing 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.”.

10. In matrimonial case, the Apex Court in the case of **Preeti Gupta and another vs. State of Jharkhand and another reported in (2010) 7 SCC 667** observed that, a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that, exaggerated version of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in very large number of cases.

11. Having heard the learned counsel for the respective parties, the issue falls for my consideration is whether the case is made out for quashing the criminal proceedings by invoking the inherent powers of this Court.
12. Having considered the contentions raised by learned counsel for respective parties and on perusal of the allegations made in the FIR, this Court is of the considered view that the allegation of cruelty being specifically alleged against the husband as she was used to beat her on the issue of household works. The applicant herein is the sister-in-law. On reading of the FIR, except causal reference of the sister-in-law, nothing specifically alleged against her in relation to the act of cruelty and demand of dowry. Thus, therefore, she has been arraigned as accused no. 6 due to serious differences of her with the husband. Thus, the allegations made against the applicant accepted in its entirety as it is, do not make out any offence and *prima-facie*, it appears that, the criminal proceedings qua the applicant having been instituted with malafide and ulterior motive.
13. For the reasons recorded, this Court is convinced that, the implication of the applicant in the questioned FIR would amount to misuse of process of law and it is

well settled that, the power under Section 482 has to be exercised by the High Court, inter-alia to prevent abuse of process of any court or otherwise to secure ends of justice and it is boundant duty of the constitutional Court to see that the criminal proceedings should not be encouraged, when it is found to be malafide or otherwise an abuse of process of the court.

14. For the aforementioned reasons, the case is fully covered by the categories (i) and (vii) as enumerated by the Apex Court in the case of State of Haryana Vs. Bhajanlal and therefore, this Court is convinced that the continuation of the criminal proceedings would be an abuse of process of the Court and law.
15. Resultantly, the application succeeds. Rule is made absolute to aforesaid extent. **FIR being CR No.11191033220039 of 2022 registered with Meghaninagar Police Station, Ahmedabad,** and other consequential proceedings thereto against present applicants are hereby quashed and set aside.
16. The observations made hereinabove are prima-facie in nature and confined to the adjudication of the present application. The investigation agency as well as the trial Court shall not get influence by the said

observation during the investigation as well as at the course of trial. Direct service permitted.

P.S. JOSHI

(ILESH J. VORA,J)