

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**  
**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE**  
**FIR/ORDER) NO. 15335 of 2022**

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MALVIKABEN KANTIBHAI SONI

Versus  
STATE OF GUJARAT

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Appearance:

MR DIPEN K DAVE(3296) for the Applicant(s) No. 1,2,3

MS AMRUTA A BHARADWAJ(13399) for the Respondent(s) No. 2

MS CM SHAH, APP for the Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE ILESH J. VORA**

**Date : 16/01/2024**

**ORAL ORDER**

1. By this application filed under Section 482 of the Cr.P.C., the applicants seek to invoke inherent powers of this Court, for quashment of the FIR being C.R.No.11208001220 of 2022 registered with Mahila Police Station, Rajkot for the offence punishable under Sections 498(A), 504, 323 and 114 of the Indian Penal Code.

2. Brief facts giving rise to file present application are that case was registered against the applicants for the act of cruelty, assault and intentionally insult of respondent no.2. The marriage of respondent no.2 was solemnized on 25.03.2015 with accused – Manish Soni. The applicants are relatives of the

husband i.e. mother-in-law, sister-in-law and brother-in-law. After the marriage, respondent no.2 stayed at Palanpur in a joint family for a period of eight months and thereafter, she went to Africa to reside with the husband as his husband is settled there as he is doing his job overthere. It is the case of the respondent – wife that she was subjected to mental and physical harassment by the applicants as well as her husband. It is specifically alleged against the sister in law that on the next date of the marriage, due to domestic issue, she was given a slapped by her. The second allegation made is that the family members were not happy with her as she could not conceive for child. So far as husband – Manish is concerned, it is alleged that when she was in Africa, the family members used to talk with the husband and due to their support, the husband was harassing her mentally and physically. The respondent wife has further alleged that she was compelled to leave the Africa and on arrival at her parental home at Lodhika, under the guise of compromise, the husband and his brother came at Lodhika where she was intimidated by the husband and caused bodily injuries.

3. In the aforesaid background facts, the FIR came to be lodged against the applicants and the husband of the wife

respondent.

4. The applicants have preferred present quashing petition, inter alia, alleging that the FIR has been filed to harass and humiliate the applicants, alleging false and concocted allegations and the prosecution initiated with malafide and ulterior motive and therefore, the proceedings would nothing but a sheer misuse of process of the Court.

5. This Court has heard learned counsel Mr.Dipen Dave, Ms.Amruta Bharadwaj and Ms.Maithili Mehta, learned APP for the respective parties.

6. Mr.Dipen Dave, learned counsel appearing for the applicants has submitted that the criminal proceedings used as an instrument to harass the applicants and with mala fide and ulterior motive. That the contradictory statement made by the respondent wife with respect to role attributed to the sister in law – accused no.2. That in the FIR, it is alleged that on the next day of the marriage, she was slapped by sister in law and in the same FIR, it has been stated that for a few months, there was no problem or dispute with the in-laws. That this contradictory itself established that with malafide intention, the entire family

members having been roped in the alleged offence with exaggerated version of the alleged harassment. The respondent – wife had left the matrimonial home after few months of the marriage and settled at Africa with the husband where she was uncomfortable with the conduct and attitude of the husband. In such circumstances, when she came back in India by narrating exaggerated version of the incident lodged a false complaint arraigning the entire family members as an accused and this is nothing but pressure tactics and harassment to the family. That the allegations of harassment do not fall under the definition of cruelty and the same does not attract the ingredients of Section 498(A) and other sections of the Indian Penal Code.

7. In view of the aforesaid contentions, learned counsel Mr.Dipen Dave has submitted that in absence of specific allegations regarding anyone of the accused except common and general allegations against everyone, no offence under Section 498(A) or under Sections 323, 504 is made out. In that view of the matter, this is a fit case to exercise inherent powers to prevent the misuse of the process of the law and Court.

8. On the other hand, opposing the application, learned

counsel Ms.Amruta Bharadwaj and Ms.Maithili Mehta, learned APP have jointly submitted that on bare reading of the allegations made in the FIR, ingredients of the offence are made out and therefore, when prima facie case is made out against the applicants, the contentions which are in nature of disputed facts required to be tried by conducting a proper trial and at this stage, the disputed fact cannot be examined.

9. Having regard to the facts and circumstances of present case, the issue falls for my consideration is to whether the case is made out to quash the criminal proceedings.

10. Before adverting to the contentions raised, it is necessary to refer to and rely upon the decision of Kahkashan Kausar @ Sonam Vs. State of Bihar (2022, Livelaw (SC) 141), wherein the Apex Court while dealing with the criminal proceedings instituted by the wife due to matrimonial dispute arranging therein the family members, by alleging exaggerated version of the incident and considering the tendency of over implication, alleging general and omnibus allegations expressed grave concern about the misuse of the process of law and Court.

11. Having heard learned counsels for the respective parties

and on perusal of the allegations made in the FIR, this Court is of considered opinion that due to serious differences with the husband which had been cropped up at Africa, when they were residing together, the present FIR is being lodged against the relative of the husband without allegation of their active involvement and that too in a casual manner. On the one hand, she said that there is no dispute for a few months and subsequently the matrimonial dispute cropped up and on the other hand, she has alleged that on the next day of marriage, she was slapped by sister in law. In police complaint filed in the year 2021 before Lodhika Police Station, Rajkot, nothing being alleged against the applicants in relation to the alleged mental and physical torture and harassment. It is to be noted that the said complaint was ordered to be filed as the police authority found that the allegations made in the complaint are false. Thus, therefore, it *prima facie* appears that the FIR lacks the ingredients of the alleged offence and therefore, I am of the opinion that the allegations leveled against the applicants, borne out of matrimonial discord, with the husband can be said to be made with malafide and ulterior motive.

12. For the reasons recorded and considering the role

attributed to present applicants herein, 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 reported (1992 Suppl. (1) SCC 335) and therefore, if the criminal proceedings is allowed to continue, so far as applicants are concerned, it would nothing but an abuse of process of law and travesty of justice and this is a fit case to exercise inherent powers for the purpose of quashing of the FIR and consequential proceedings thereof.

13. Resulently, the application is **allowed**. FIR being C.R.No.11208001220 of 2022 registered with Mahila Police Station, Rajkot and consequential proceedings thereof qua the applicants are quashed. The observations made herein are tentative in nature. The learned Trial Court is at liberty to proceed against the husband, in accordance with law. Direct Service is permitted.

Rakesh

(ILESH J. VORA,J)