

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 21554 of 2022**

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REKHABEN RAJNIKANT DEVANI

Versus

STATE OF GUJARAT

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Appearance:

MR.NANDISH H THACKAR(7008) for the Applicant(s) No. 1,2

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

RULE SERVED THRU CONCERNED POLICE STN for the Respondent(s)

No. 2

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CORAM:**HONOURABLE MR. JUSTICE ILESH J. VORA****Date : 30/01/2024****ORAL ORDER**

1. By invoking inherent powers of this Court, the applicants – original accused have preferred this petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of criminal proceedings initiated by the private respondent for the offence punishable under Sections 498(A), 323, 294(B), 506(2) and 114 of the Indian Penal Code read with Sections 3 and 7 of the Dowry Prohibition Act.
2. Brief facts giving rise to file present application are that the marriage of the private respondent with Ankit Rajnikant Devani was solemnized on 10.12.2018 and thereafter, the private respondent went to her matrimonial home at Gandhinagar as her husband being a chartered accountant doing his profession in a partnership firm. The matrimonial dispute arose after four to five months of the marriage period. It is alleged by the respondent wife that on petty issue, the husband, mother in law and brother in

law hurled abuses and was physically and mentally tortured by the husband at the instance of family members. It is further alleged that she asked to bring Rs.10 lakhs as a dowry from her parental home and after birth of the male child, she was subjected to harassment by the in-laws and lastly, in the month of January-2022, she was driven out from the matrimonial home. In these circumstances, the private respondent lodged an FIR being C.R..No.1119100722074 of 2022 registered with Bapunagar Police Station, against the husband and his relatives for the aforesaid offences.

3. Pursuant to the aforesaid FIR, the mother in law and brother in law have preferred present application *inter alia* alleging that the criminal proceedings is being initiated with *malafide* intention and to defame them in the society and thus, the same is nothing but an abuse of process of the law and Court.
4. This Court has heard learned counsel Mr.Nandish Thackar and Ms.Asmita Patel, learned APP for the respondent – State. The private respondent who has lodged the FIR, though served, has not filed his appearance nor filed any affidavit to oppose the petition.
5. Mr.Nandish Thackar, learned counsel has submitted that the impugned FIR is absolutely false and frivolous and on reading of it, no offence is made out and it is a case of false implication as there is no any specific instances are being alleged in relation to the mental and physical cruelty. That the demand of Rs.10 lakhs has been casually alleged that too after three years of the marriage. That the applicants

are permanent resident of Talala, Junagadh and since the date of marriage, they never shared the house with the private respondent. That due to differences between the husband and private respondent, without their being any justifiable reason, by making exaggerated version of the incident, has falsely implicated the applicants with a view to mounting pressure on the applicants.

6. In view of the aforesaid contentions, learned counsel for the applicants submitted that the allegations made in the FIR, even if they are taken a face value, do not constitute or attract the alleged offence of a cruelty and dowry demand, and therefore, the continuation of the criminal proceedings is nothing, but an abuse of process of the law and Court and in the interest of justice, the same may be quashed and set aside.
7. On the other hand, learned APP by opposing the contentions raised herein has submitted that the issue raised herein cannot be examined at this stage and thus, disputed question of facts will have to be tried at the stage of trial and thus, therefore, she would urge that no any exceptional circumstances exists to exercise the inherent powers of this Court.
8. Having heard learned counsels for the respective parties and on perusal of the material place on record, the issue is whether the case is made out to quash the criminal proceedings by exercising inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973.
9. On bare perusal of the FIR and material placed on record,

it appears that the applicants mother in law and brother in law are living separately at Villate Talala, Dist.: Junagadh. The parties are originally belonged to Village Talala and due to profession of the husband, the private respondent lived with him at Gandhinagar and since the date of the marriage, the husband and wife had lived together at Gandhinagar. The private respondent in her FIR has admitted the said facts and thus, therefore, it is evident that the applicants have never shared the house with the private respondent. The brother in law is doing business at Village Talala, Junagadh and the same has been established by the certificate issued under the provisions of Gujarat Shops and Establishment Act, 1963. The certificate shows that since July-2017, he is doing his business in the name and style of Richlight.

10. In these background facts, this Court finds merits in the contentions canvassed by the applicants. Thus, therefore, this Court is convinced that it is the case of the false implication and criminal proceedings initiated with *malafide* and *ulterior motive*. The allegation qua the applicants seems to be general in nature and the same does not attract the ingredients of cruelty as defined under Section 498(A) of the Indian Penal Code. In such circumstances, *prima facie* no offence is made out against the accused for the alleged offences as referred in the FIR.
11. 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.

12. Resultently, the application succeeds. The FIR being C.R.No.11191007220744 of 2022, registered with Bapunagar Police Station, Ahmedabad and other consequential proceedings thereto are quashed and set aside.
13. The views expressed hereinabove are confined to the case of present applicants herein. The trial Court shall decide the case of the husband in accordance with law without being influenced by the observations made hereinabove.

Rakesh

(ILESH J. VORA,J)