



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD  
CRIMINAL APPLICATION NO.2218 OF 2020**

1. Chhaya w/o Prakash Kosalge, (Mother-in-law)  
Age: 60 years, Occu.: Household,  
R/o: In front of Government Ayurvedic College,  
Near S.P. Office, Nanded,  
Taluka and District: Nanded.
2. Prakash s/o Purushottam Kosalge (Father-in-law)  
Age: 67 years, Occu.: Business,  
R/o: As above.
3. Anil s/o Pandharinathrao Manathkar, (Family friend  
Age: 64 years, Occu.: Business, Mediator)  
R/o: Chikhalwadi Corner, Near Forest Office,  
Nanded, Taluka & Dist. Nanded.
4. Dilip s/o Pandharinathrao Manathkar (Family friend  
Age: 67 years, Occu.: Legal Practitioner, Mediators)  
R/o: As above.
5. Sourabh s/o Prakash Kosalge, (Brother-in-law)  
Age: 27 years, Occu.: Medical Practioner,  
Original R/o: In front of Government  
Ayurvedic College, Near S.P. Office, Nanded,  
Taluka and District: Nanded,  
Presently residing at Government Medical  
Quarter Campus (Ghati Hospital),  
Aurangabad, Taluka and District: Aurangabad. ..Applicants

Versus

1. The State of Maharashtra,  
through the Officer Incharge,  
Vazirabad Police Station, Nanded,  
Taluka and District: Nanded.
  2. Digambar s/o Baburao Lamshetwar,  
Age; 56 years, Occu.: Business,  
R/o: House No.81, Padmaja City,  
Asarjan Road, Kautha, Nanded,  
Taluka and District: Nanded.
- Non-Applicants  
(No.2-Original informant)

Mr. Rajendra Deshmukh, Senior Advocate i/by Mr. D. R. Deshmukh, Advocate for the Applicants.

Mr. A. V. Lavte, APP for Respondent No.1.

Mr. A. B. Shinde, Advocate for Respondent No.2.

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**CORAM : SMT. VIBHA KANKANWADI AND  
S. G. CHAPALGAONKAR, JJ.  
DATED : 18<sup>th</sup> SEPTEMBER, 2024.**

**JUDGMENT (Per S. G. Chapalgaonkar, J):-**

1. The applicants have approached this Court under Section 482 of the Criminal Procedure Code thereby praying to quash and set aside FIR in Crime No.391/2020 dated 14.08.2020 registered with Vazirabad Police Station, Tq. and Dist. Nanded for offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code as well as charge-sheet/final report bearing no.50/2021 dated 22.02.2021 and consequential criminal proceeding in RCC No.230/2021 pending before Chief Judicial Magistrate at Nanded.

2. The non-applicant no.2 filed report dated 14.08.2020 with Vazirabad Police Station alleging that his daughter Shraddha was married with Swapnil Prakash Kosalge on 07.05.2019. The marriage was mediated by applicant nos.3 and 4. After marriage Shraddha resided in matrimonial home alongwith her in-laws. During her short stay, her father-in-law asked her to bring amount of Rs.5,00,000/- for medical shop and Rs.20,00,000/- for office purchase at Pune from parents so also demanded travel expenses towards air tickets for Chicago, United States of America. The Shraddha told her mother about such demands raised within a period of seven days of marriage. The mediators i.e. applicant nos.3 and 4 were given idea about such demand and ill-treatment. Thereafter, on visit of informant to matrimonial house of Shraddha alongwith mediators, she disclosed about ill-treatment meted to her and expressed apprehension to life. The mediators also

supported the demand of in laws. After two days amount of Rs.1,00,000/- was handed over to Swapnil. On 17.05.2019 the Swapnil and Shraddha left to Unites States. However, within short stay in USA, Shraddha came to know about extra marital affair of Swapnil and the fact that Swapnil had performed marriage with her only with intention to extract money. She had also informed that she had been subjected to assault by Swapnil and he made her to suffer starvation. Further, she was asked to consume pills as advised by brother-in-law i.e. Dr. Sourabh.

3. Since, Shraddha suffered ill-treatment, on 11.09.2019 her mother and brother had been to USA. They noticed ill-treatment suffered by Shraddha. The mother and brother of Shraddha attempted conciliation of disputes and requested Swapnil to care for Shraddha. On 25.10.2019, Shraddha's mother and brother returned Nanded. Thereafter, Shraddha informed that Swapnil was asking for expenses towards stay of her mother and brother. On 27.10.2019 Shraddha informed that she has apprehension of life. On 01.11.2019 Shraddha informed that her health has been deteriorated, since she was administered pills as advised by Dr. Sourabh. On 04.11.2019 when Shraddha's mother made phone call to Swapnil, he informed that Shraddha needs medical treatment. In afternoon, he informed that Shraddha lost life due to negligence of doctors. On 08.11.2019 dead body of Shraddha was brought to Nanded. The medical papers regarding her medical treatment in USA were not provided by in-laws. Thereafter, last rites were performed on dead body of Shraddha.

4. It is accordingly alleged that Shraddha died of ill-treatment as well as administration of pills. Consequently, Crime No.391/2020 came to be registered with Vazirabad Police Station against in all six accused persons including applicants. The

investigation progressed. Finally charge-sheet has been filed against applicants for aforesaid offences.

5. Mr. R. S. Deshmukh, learned Senior Advocate appearing for the applicants submits that applicants have been falsely implicated in aforesaid crime. The deceased Shraddha suffered natural death in USA due to congenital cardiac disorder. After her death, non-applicant no.2 had initiated proceeding for issuance of succession certificate to claim terminal benefit of life insurance policy, claiming himself to be only successor of Late Shraddha. In said proceeding, applicant no.2 filed objection through applicant no.4, who is a reputed Advocate. Enraged by said fact, present FIR has been lodged. He would point out that Shraddha died 04.11.2019, her dead body was brought to Nanded on 08.11.2019, present FIR has been lodged on 14.08.2020. The inordinate delay of nine months in lodging FIR is unexplained. He would invite attention of this Court to the postmortem report and death certificate of Shraddha depicting her natural death, on account of ruptured aortic dissection.

6. Mr. Deshmukh would further point out that applicant nos.1 and 2 are mother-in-law and father-in-law of deceased. The applicant nos.3 and 4 are family friends and mediators of marriage. Applicant no.5 is brother-in-law of deceased, who is post graduate medical student at Aurangabad. Applicant nos.1 to 4 are resident of Nanded. Applicant no.5 is resident of Government Hospital at Aurangabad. The allegations about ill-treatment towards Shraddha are omnibus and afterthought. The Shraddha resided at her matrimonial house in Nanded hardly for a period of nine days before she departed to USA on 17.05.2019. He would, therefore, urge that demand and ill-treatment towards Shraddha at the hands of applicants is a concocted story and cannot be entertained

for prosecution of applicants. He urges to quash and set aside FIR and consequential criminal proceeding against applicants.

7. Mr. Lavte, learned APP appearing for the respondent-State and and Mr. Shinde, learned Advocate appearing for respondent no.2 vehemently opposes the prayers in the application contending that stipulations in the FIR and material in the charge-sheet is sufficient to constitute triable case against accused persons.

8. We have considered submissions advanced on behalf of learned Advocates appearing for the respective parties. We have minutely considered the contents of FIR as well as material in the charge-sheet. It can be observed that the daughter of non-applicant no.2 namely Shraddha married with son of applicant nos.1 and 2 on 07.05.2019. After short stay in the matrimonial house at Nanded, the couple departed to USA on 17.05.2019. On 11.09.2019 Shraddha's mother and brother traveled to USA and resided with her till 25.10.2019. The Shraddha expired on 04.11.2019. The charge-sheet contains report of postmortem examination issued by Assistant Medical Examiner, Office of the Medical Examiner, County of Cook, Illinois, Chicago, United States. The postmortem examination finds cause and manner of death, which states as under:

**"POSTMORTEM EXAMINATION FINDINGS"**

*1. Ruptured aortic dissection*

*a. Hemoperitoneum*

*b. Hemopericardium*

*c. Microscopic examination: confirms aortic dissection*

*2. STAT vitreous drug screen dipsticks: Negative for cocaine, opiates, fentanyl, methamphetamine, and amphetamine*

**CAUSE AND MANNER OF DEATH**

*Based on the postmortem examination findings and investigation reports, this 25-year-old female died of ruptured aortic dissection. **The manner of death is natural.***

9. The certification of death record issued by Cook County Clerk Vital Records, Chicago Illinois dated 11.05.2019 certifies manner of death to be “natural”. Taking into account aforesaid documentary evidence, it can be evidenced that death of Shraddha was natural. However, applicants are charged for offence punishable under Section 304-B of Indian Penal Code, hence, it would be apposite to refer to the wordings of Section 304-B of the Indian Penal Code, which reads as under:

***“304B. Dowry death —***

*(1) Where the death of a woman is caused by any burns or bodily injury or **occurs otherwise than under normal circumstances** within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.”*

10. Plain reading of aforesaid penal provision depicts that to constitute offence under Section 304-B of the Indian Penal Code, the death of a woman shall be caused by any burns or bodily injury or **otherwise than** under “**normal circumstance**” within seven years of marriage and soon before death of woman, she is subjected to cruelty or harassment by her husband or any relative of her husband for or in connection with any demand of dowry. In present case, from the contents of the charge-sheet, observations in postmortem examination report, particularly cause of death mentioned, it is evident that death of Shraddha was natural, owing to congenital aortic dissection. There is nothing to depict that death was otherwise than under normal circumstance. Secondly, contents of FIR do not show that at the time of marriage, the dowry was fixed and there was demand of such dowry by the in-laws.

Thirdly, there is nothing to show that soon before death, Shraddha was subjected to cruelty or harassment in connection with demand of dowry.

11. The Supreme Court of India in case of ***Satbir Singh and Another Vs. State of Haryana***<sup>1</sup> while interpreting the term dowry observed that the dowry mentioned in Section 304-B should be any property or valuable security given or agreed to be given in connection with marriage. In present case, the contents of FIR or charge-sheet nowhere depicts any such agreement. Further in case of ***Kans Raj Vs. State of Punjab***<sup>2</sup> the Supreme Court of India laid down five essential ingredients to make out offence under Section 304-B of the Indian Penal Code, which can be stipulated as under:

*“(i) the death of a woman should be caused by burns or bodily injury or otherwise than under a ‘normal circumstance’;*

*(ii) such a death should have occurred within seven years of her marriage;*

*(iii) the deceased was subjected to cruelty or harassment by her husband or any relative of her husband;*

*(iv) such cruelty or harassment should be for or in **connection with demand of dowry**; and*

*(v) such cruelty or harassment is shown to have been meted out to the woman **soon before her death.**”*

12. On consideration of aforesaid elaboration of essential ingredients explained by Supreme Court of India, we find that in facts of present case, three important ingredients are missing. Firstly, death of Shraddha is not occurred otherwise than under normal circumstance. Secondly, there is nothing to depict demand of dowry and harassment or cruelty in pursuance of such demand. Thirdly, there is nothing to depict that soon before death of

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<sup>1</sup> (2021) 6 SCC 1.

<sup>2</sup> (2000) 5 SCC 207.

Shraddha she was subjected to such harassment or cruelty, when she died in USA.

13. It is pertinent to note here that applicants before us are resident of Nanded. The Shraddha died in USA, while she was residing alongwith her husband. Admittedly, she resided at her matrimonial home at Nanded only for the period of nine days before her departure immediately after marriage to USA. The mother and brother of Shraddha had been to USA and resided with her from 11.10.2019 to 25.10.2019. At no point of time, complaint was lodged by informant regarding ill-treatment to Shraddha by her in-laws. Even present FIR has been lodged after 10 months of death of Shraddha. No explanation is given for the inordinate delay in lodging the FIR. On other hand, there is room to believe that immediately after objection by applicant no.1 in proceeding instituted by non-applicant no.2 for succession certificate to receive terminal benefits of life insurance policy, the present FIR has been lodged. Interestingly, applicant no.4, who is legal practitioner engaged by applicant no.1 to defend proceeding of succession certificate is also made as an accused alongwith other applicants.

14. At this stage reference can be given to the judgments of the Supreme Court of India in following cases:

1. ***Preeti Gupta and Another Vs. State of Jharkhand and Another***<sup>3</sup>.
2. ***Kahkashan Kausar @ Sonam and Another vs The State Of Bihar and Others***<sup>4</sup>.
3. ***Sushil Kumar Sharma Vs. Union of India and Others***<sup>5</sup>
4. ***Neelu Chopra and Another Vs. Bharati***<sup>6</sup>.

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<sup>3</sup> AIR 2010 SC 3363.

<sup>4</sup> (2022) 6 SCC 599.

<sup>5</sup> (2005) 6 SCC 281.

<sup>6</sup> (2009) 10 SCC 184.



Wherein Supreme Court expressed need curb / guard misuse of proceedings instituted under criminal law in matrimonial disputes and false implication of relatives of husband to wreak vengeance against them.

15. If aforesaid position of law is considered in the facts of the present case, it is apparent that the applicants who were residing in India and had short company of only nine days with Shraddha immediately after marriage are falsely implicated in present proceeding. The applicant nos.3 and 4 are not even family members or relatives of deceased Shraddha. The applicant no.5 is a student of Post Graduate Medical Course and resides at Government Hospital at Aurangabad. In no case applicants could have ill-treated Shraddha, who died in USA. Considering the nature of allegations employed in FIR and material in the charge-sheet, we have no hesitation to hold that there is no triable case against the applicants. The FIR and criminal proceeding is abuse of process of law. Applying the principles of law espoused in case of *State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors.*<sup>7</sup>, we find that this is a fit case to exercise jurisdiction under Section 482 of the Criminal Procedure Code. Hence, we proceed to pass following order:

### **ORDER**

- a. Criminal Application is allowed.
- b. The FIR in Crime No.391/2020 dated 14.08.2020 registered with Vazirabad Police Station, Tal. and Dist. Nanded for offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code as well as charge-sheet/final report bearing no.50/2021 dated 22.02.2021 for offences punishable under Sections 304-B, 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code and

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<sup>7</sup> AIR 1992 SC 604.

consequential criminal proceeding in RCC No.230/2021 pending before Chief Judicial Magistrate at Nanded are hereby quashed and set aside.

c. Criminal Application is disposed of.

**(S. G. CHAPALGAONKAR)**  
**JUDGE**

**(SMT. VIBHA KANKANWADI)**  
**JUDGE**