

(2017) 01 GUJ CK 0057
In the Gujarat High Court
Case No : 10859 of 2015

HARSHADBHAI PRATAPBHAI VALA & ORS.

APPELLANT

Vs

STATE OF GUJARAT & ANR.

RESPONDENT

Date of Decision : 11-01-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 482](#) - Saving of inherent powers of High Court
[Indian Penal Code, 1860](#), [Section 114](#),
[Section 498A](#), [Section 323](#), [Section 406](#), [Section 506\(2\)](#) - Abettor present when offence is committed - Husband or relative of husband of a woman subjecting her to cruelty - Punishment for voluntarily causing hurt - Punishment for Criminal breach of trust - Punishment for criminal ,intimidation
[Dowry Prohibition Act, 1961](#), [Section 3](#),
[Section 7](#) -
Gujarat Police Act, 1951, Section 135

Citation : (2017) 01 GUJ CK 0057

Hon'ble Judges : J.B.Pardiwala

Bench : Single Bench

Advocate : ASHISH M DAGLI, ?THAKORE, ADDL. ?TATVDEEP J JANI

Final Decision : Allowed

Judgement

1. At the outset, this application is not pressed so far as the applicant No.1- Harshadbhai Pratapbhai Vala is concerned. The same is disposed of accordingly.
2. I am now left with to consider the case so far as the applicants Nos.2,3, and 4 are concerned.
3. Rule returnable forthwith. Ms. Thakore, the learned APP, waives service of notice of rule for and on behalf of the respondent No.1. Mr. Tatvdeep Jani, the learned advocate, waives service of notice of rule for and on behalf of the respondent No.2.
4. By this application under Section 482 of the Code of Criminal Procedure,

1973, the applicants seek to invoke the inherent powers of this Court praying for quashing of the first information report bearing C.R. No.I-40 of 2015 lodged before the Mahila Police Station, Rajkot for the offence punishable under sections 406, 498A, 323, 506(2) read with section 114 of the Indian Penal Code, sections 3 and 7 of the Dowry Prohibition Act and section 135 of the Gujarat Police Act.

5. It appears that the filing of the charge-sheet culminated in the Criminal Case No.4471 of 2015 pending in the court of the learned J.M.F.C., Rajkot.

6. The case of the first informant may be summarized as under;

6.1 The first informant got married to the applicant No.1- Harshadbhai Pratapbhai Vala on 6th December, 2013. It is

alleged in the first information report that within 15 days from the date of the marriage, the husband and his family members started harassing the first informant. The allegations are that the husband asked the first informant not to travel in an open car; not to stand in the open balcony; compulsorily the face should be covered; the wife should not talk with any other person; the wife should not get out of the matrimonial home; the wife should not call up her parents, brother or the sister. Such were the restrictions imposed by the husband on the first informant, i.e., his wife. The further allegations are that at one point of time, i.e., almost within one month from the date of the marriage, the husband administered, forcibly, a contraceptive pill, on account of which, the health of the first informant got deteriorated. Despite being in this position, the husband did not bother to take the wife to the doctor. The other allegations, which are general in nature, are against the applicants Nos.2,3 and 4, who are none other than the father-in-law, mother-in-law and the brother-in-law.

7. Mr. Poojara, the learned counsel appearing for the applicants, submitted that even if the entire case of the first informant is accepted or believed to be true, no case could be said to have been made out against the applicants Nos.2,3 and

4. According to him, none of the ingredients to constitute the offence of cruelty within the meaning of section 498A are spelt out. The matrimonial disputes arose between the husband and wife and there was no reason for the wife to implicate the father-in-law, mother-in-law and the unmarried brother-in-law. The learned counsel would submit that this is one more case wherein the wife has exhibited the tendency to implicate as many family members from the husband's side.

8. He prays that the proceedings of the criminal case against the applicants be quashed.

9. On the other hand, this application has been vehemently opposed by Mr. Tatvdeep Jani, the learned counsel appearing for the first informant. He would submit that the plain reading of the first information report and the other materials on record would reveal more than a prima facie case against all the

applicants. He would submit that the Court may not embark upon an inquiry as regards the truthfulness of the allegations. He submits that there being no merit in this application, the same be rejected.

10. The learned APP appearing for the State also opposed this application vehemently. The learned APP has also made the same submissions as canvassed by the learned counsel appearing for the first informant.

11. Having heard the learned counsel appearing for the parties and having considered the materials on record, the only question that falls for my consideration is whether the proceedings be quashed so far as the applicants Nos.2,3 and 4 are concerned.

12. I am of the view that no case could be said to have been made out against the applicants Nos.2,3 and 4 to put them to trial. The allegations against them are quite general. Sweeping statements have been made of instigation.

13. Putting the applicants Nos.2, 3 and 4 to trial will be

nothing but travesty of justice. I also take notice of the fact that after the marriage, the first informant stayed at her matrimonial home for a period of 11 months, that means that she must have left her matrimonial home sometime in November, 2014. The first information report was lodged on 27th April, 2015.

14. In view of the above, this application succeeds and is hereby allowed. The further proceedings of the Criminal Case No.4471 of 2015 pending in the court of the learned J.M.F.C., Rajkot are hereby quashed so far as the applicants Nos.2,3 and 4 are concerned. The criminal case shall now proceed further expeditiously in accordance with law so far as the applicant No.1, i.e., the husband is concerned. Rule is made absolute to the aforesaid extent.

Direct service is permitted.