

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 101 OF 2020

Maya D/o Gangaram Bhalerao
Age: 32 years, Occ. Service (Asst. Teacher)
R/o: New Mondha, Mastanpura, Nanded. ... **Applicant**

Versus

1. The State of Maharashtra
Through P. I. Police Station,
Police Station Akhada Balapur, Dist. Hingoli.
2. Shikita W/o Rahul Jondhale
Age: 30 years, Occu: Household,
(Daughter of Narba Kolhe)
R/o: Bhategao, Tq. Kalamnoori,
Akhada Balapur, Dist. Hingoli ... **Respondents**

...
Advocate for Applicant : Mr. Shaikh Wajeed Ahmed
APP for Respondent No.1/State : Mr. R. B. Bagul
Advocate for Respondent No.2: Mr. Imran Khan (Appointed)
...

**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**
DATE : 19.01.2021

JUDGMENT : (Per: *M.G. Sewlikar, J.*)

Rule. Rule is made returnable forthwith. Learned A.P.P. and the learned advocate for the respondent no.2 waive service. With the consent of both the sides the matter is heard finally at the stage of admission.

2. The applicant by this application has invoked the provisions of Section 482 of the Cr.P.C. for quashing of the FIR No.385 of 2019 and proceedings of RCC Case No.16/2020 pending on the file of learned J.M.F.C., Kalamnuri, District Hingoli for the offence punishable under Section 498-A, 323, 504, 506 read with Section 34 of the I.P.C.

3. Facts giving rise to this application are that the respondent no.2 married Rahul Jondhale on 17.02.2009. After marriage, her husband, her mother in law, her two sisters in laws started ill-treating the respondent no.2. They used to say that she was not good looking. They used to say that she should bring Rs.17,000/- from her parents every month to enable them to pay monthly installment of Indica car. When she expressed her inability to bring the said amount from her mother, both the sisters in laws started saying to her that if she failed to bring the amount from her parents, they would get her husband-Rahul married off to some other lady. Her husband has kept one lady i.e. the applicant and she is staying in the house of her husband. The applicant and others started ill-treating her and finally drove her out of the house. On these allegations, FIR as stated above came to be registered against the applicant.

4. Heard Shri Shaikh Wajid learned counsel for the applicant, Shri R.B. Bagul learned APP for the State and Shri Imran Khan learned counsel for the respondent no.2.

5. From the FIR it is evident that the applicant is not a legally wedded wife of husband of respondent no.2. It is her contention in the FIR that her husband has illicit relations with the applicant. It is not the allegation in the FIR that the applicant is related by blood to the husband of respondent no.2. Section 498-A of the I.P.C. applies only to husband or the relatives of the husband. It does not apply to a stranger to the family. Section 498-A of I.P.C. reads as under:

“Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.”

6. The words’ being the husband or the relative of the husband of a woman clearly indicate that ill-treatment should be either from the husband or the relative of the husband of a woman. In the case at hand since the applicant is not the relative of the husband of respondent no.2 Section 498-A cannot be pressed in to service. Therefore, bare perusal of the contents in the

FIR indicate that there is no possibility of conviction of the applicant. Therefore, continuation of prosecution would be nothing but an abuse of process of law. Therefore, the instant case is squarely covered by condition 1 and 3 laid down by the Hon'ble Supreme Court in the case of **State of Haryana and Ors. V/s. Bhajan Lal and Ors.; AIR 1992 SUPREME COURT 604.** In this view of the matter, we are inclined to quash the FIR. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Relief is granted for quashing of FIR No.385/2019 registered with Akhada Balapur Police Station, District Hingoli and also Regular Criminal case No.16 of 2020 pending in the Court learned J.M.F.C. Kalamnuri, District Hingoli.
- III) Rule made absolute in those terms.
- IV) Fees of the appointed counsel is quantified @ Rs.4000/- and it is to be paid through the High Court Legal Services Authority, Sub-Committee at Aurangabad.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]