

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

964 CRIMINAL APPLICATION NO.1896 OF 2019

KARUNA DIGAMBAR DILPAK-SAKARE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. V.V. Ingle, Advocate for the applicants.
Mr. M.M. Nerlikar, A.P.P. for respondent No. 1.
Mr. Prashant Sukale, Advocate appointed for respondent No. 2.

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CORAM : **SUNIL P. DESHMUKH AND
N.B. SURYAWANSHI, JJ.**

DATE : 16-09-2021.

ORDER :

1. This application is filed under Section 482 of the Code of Criminal Procedure by the sister-in-law and brother-in-law of the first informant / respondent No. 2, seeking quashing of the F.I.R. at C.R. No. 54/2019 registered with Shivaji Nagar Police Station, Nanded for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2. The informant, in short, alleged in the F.I.R. that her marriage with Jivak, brother of the applicants, took place on 27.05.2001. Since marriage she was staying with her husband at Bhimnagar, opposite Civil Hospital, Osmanabad, District Osmanabad. Initially she was treated well. After 4 to 5 months the in-laws started ill-treating her. Two children were begotten to her from the marriage. Applicant No. 1 is resident of Chembur, Mumbai. She instigated the husband of the informant, due to which he started

beating the informant and started demanding Rs.2,00,000/-. The maternal relatives of the informant paid Rs. 1,50,000/-. However, after the said amount was spent, again in-laws kept on ill-treating the informant. On these allegations F.I.R. came to be registered. Pursuant to the completion of investigation in the F.I.R., charge-sheet came to be filed.

3. Applicant NO. 1 is admittedly residing at Mumbai and applicant No.2 is the resident of another place i.e. Tuljapur, District Osmanabad. The learned Advocate for the applicants, by placing reliance in ***Preeti Gupta and another vs. Jharkhand and another, AIR 2010 SC 3363***, states that the applicants are falsely implicated in the crime though they are residing separately. He, therefore, prays for quashing of the F.I.R. to the extent of the applicants.

4. Learned A.P.P., on the other hand, submitted that there are specific allegations showing involvement of the applicants in the present crime and on completion of investigation, charge-sheet is also filed. Therefore, the applicants are not entitled for any relief.

5. Learned Advocate for respondent No. 2 submitted that the applicants are specifically named in the F.I.R. and specific overtact is attributed to them. The applicants have alternate remedy to file discharge application. Therefore, the application may not be entertained.

6. Perusal of the F.I.R. reveals that vague and general allegations are levelled against the applicants. The applicants are staying away and are not residing with the informant and her

husband. Applicant No.1 is staying at Mumbai, whereas the applicant No.2 is staying at Tuljapur, District Osmanabad. Taking into consideration the ratio of ***Preeti Gupta and another vs. Jharkhand and another***, it appears that the implication of the applicants in the complaint is meant to harass and humiliate the relatives of the husband and that seems to be the only basis to file this complaint against the applicants. The continuation of the proceedings against the applicants, in our view, would be an abuse of process of law.

7. Criminal application is, therefore, allowed in terms of prayer clause B-1.

8. Learned Advocate Shri Sukale is appointed to represent respondent No. 2. The Legal Aid Services Authority, High Court, Aurangabad to pay an amount of Rs. 2,500/- towards the fees of Shri Sukale, within a period of four weeks from today.

(N.B. SURYAWANSHI, J.)

(SUNIL P. DESHMUKH, J.)

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