

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

CRIMINAL APPLICATION NO. 2064 OF 2021

Varsha Laxman Khandagale

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

.....
Ms Ashwini A. Lomte, Advocate h/f Shri. S. J. Salunke, Advocate for
the applicant
Shri. K. S. Patil, APP for respondent / State
Shri. M. P. Kale, Advocate h/f Shri. P. N. Muley, Advocate for
respondent no. 2

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**CORAM : V. K. JADHAV &
SANDIPKUMAR C. MORE, JJ.**

DATE : DECEMBER 21, 2021

ORAL ORDER : -

1. Heard finally with consent, at admission stage.
2. The applicant is seeking quashing of the FIR bearing Crime No. 161/2021 registered with Police Station, Dharur, Dist. Beed for the offences punishable under Sections 307, 498A, 504, 506 r/w 34 of the Indian Penal Code.

3. Learned counsel for the applicant submits that on the basis of the complaint lodged by respondent no. 2, the crime referred to above came to be registered against the present applicant, husband of respondent no. 2 and other persons from husband's family.

4. Learned Counsel for the applicant submits that the applicant herein is not a family member of respondent no. 2. It is alleged in the complaint that there were illicit relations between the co-accused husband and the applicant herein and on one occasion, respondent no. 2 had witnessed the same. Learned counsel further submits that in connection with the same incident it has vaguely alleged against the applicant that the applicant and co-accused husband had abused respondent no. 2, however, no reasons have been given for the said abuses. Learned Counsel submits that the allegations have been made with certain oblique motive since the applicant allegedly developed illicit sexual relations with the co-accused husband of respondent no. 2.

5. Learned Counsel for the applicant places reliance on the judgment of the Hon'ble Supreme Court in the case of **U. Suvetha Versus State By Inspector of Police and another** reported in (2009) 6 SCC 757, wherein it is observed that the persons who are relatives of

the husband may commit offence under Section 498A of the Indian Penal Code, however, the term 'relative' of the husband does not include the girl friend or concubine.

6. Learned counsel for respondent no. 2 submits that the co-accused husband and present applicant are serving in the same police department and both of them work in the capacity of police constable. Learned Counsel submits that the specific incident of dated 18.06.2021 has been quoted in the complaint filed on 16.07.2021. On that day, respondent no. 2 had chased applicant along with the co-accused husband and when they entered in one room, she witnessed the illicit sexual relations between them. Learned Counsel submits that when respondent no. 2 objected for the same, she was subjected to abuses by both of them. Learned Counsel submits that there is no substance in this application and same is liable to be dismissed.

7. We have also heard learned APP for respondent/State.

8. So far as charge under Section 307 of the Indian Penal Code is concerned, the allegations have been made mainly against the co-accused husband, mother-in-law and other family members of

husband. Insofar as charge under Section 498A of the Indian Penal Code is concerned, in view of the judgment in the case of U. Suvetha (supra) relied upon by the learned Counsel for the applicant, the term 'relative' does not include girl friend or the concubine. In view of the same, the charge under Section 498A as far as applicant is concerned, is also not sustainable.

9. So far as charge under Sections 504 and 506 of the Indian Penal Code is concerned, the allegations are absurd and vague in nature. There are no details as to what abuses were allegedly hurled by the applicant. Further, the said incident had allegedly taken place on 18.06.2021, however, no immediate complaint was filed about the same. The reference of the said incident was given in the complaint filed on 16.07.2021. Thus, considering the entire aspect of the case, we proceed to pass the following order.

ORDER

- [i] Criminal Application is allowed in terms of prayer clause 'B' thereof.
- [ii] Criminal Application is accordingly disposed of.

[SANDIPKUMAR C. MORE]
JUDGE

[V. K. JADHAV]
JUDGE