

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

50 CRIMINAL APPLICATION NO. 3642 OF 2019

**FARIDA BEGUM ABDUL KHALED MOMIN AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Advocate for Applicants : Mr. S.J. Salunke.
APP for Respondent No. 1 : Mr. M.M. Nerlikar.
Advocate for Respondent No. 2 : Mr. A.M. Inamdar.

**CORAM : SUNIL P. DESHMUKH AND
NTIN B. SURYAWANSHI, JJ.
DATED : 14.09.2021**

PER COURT :

1. This application filed by mother-in-law and sister-in-law seeks quashing of FIR lodged by respondent No. 2 /informant at Crime No. 220/2019, registered with Beed Police Station, for the offences punishable under Sections 498-A, 107, 323, 504, 506, 34 of the Indian Penal Code and under Sections 3 and 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019.

2. The impugned FIR is lodged on 06.09.2019, in short, alleging that the marriage of informant with Momin Abdul Kalim was performed on 29.09.2016, as per Muslim rights. After the marriage, the informant was treated well for four months and thereafter, she was ill-treated for bringing Rs. Five Lakhs, from her father to bring

material for general stores. Informant's parents paid Rs. Three Lakhs to the informant's husband. Thereafter, for a period of one year, she was treated well. During that period, she delivered a girl child. Thereafter, the husband – Momin Abdul Kalim, mother-in-law – Farida Begum and sister-in-law – Tabassum (applicants No. 1 and 2) again started ill-treatment to respondent No. 2 for demand of Rs. Two Lakhs from her parents. All the accused used to ill-treat her.

3. The learned Advocate for the applicants contend that the applicants cannot be prosecuted under the provisions of the Muslim Women (Protection of rights on Marriage) Act, 2019, and only husband can be prosecuted under Section 3 and 4 of the said Act. He further submits that vague and general allegations are levelled against the applicants and therefore, the FIR is liable to be quashed against both the applicants. The applicant No. 2 is married ten years back and she is staying with her husband at a different place and she had no occasion to ill-treat the informant. According to him, she is implicated only with a view to harass the in-laws. In support of his contentions, he placed reliance on the following judgments :

1. Rahna Jalal Versus The State of Kerala and another, dated 17.12.2020 passed by Hon'ble Apex Court in Criminal Appeal No. 883/2020 ;

2. Anil Baban Rathod and Others Versus The State of

Maharashtra and another, dated 17.03.2021 passed by Hon'ble High Court, Bench at Aurangabad, in Criminal Application No. 964/2020 ;

3. *Hitesh Verma Versus State of Uttarakhand and another*, 2021 CRI.L.J. Page No. 1.

4. Learned APP submits that on reading the FIR, it is clear that there are specific allegations against the applicants in respect of ill-treatment given by them to the informant. Hence, the FIR under Section 498-A of the IPC, is not liable to be quashed. He, however, fairly concedes that the applicants cannot be prosecuted for the offences punishable under the Muslim Women (Protection of Rights on Marriage) Act, 2019, and only the husband is liable to be prosecuted.

5. Learned Advocate appearing for respondent No. 2 / first informant submits that there are specific allegations against both the applicants and FIR is not liable to be quashed against them.

6. Admittedly, the mother-in-law, informant and her husband were staying together. There are specific allegations against the mother-in-law about ill-treatment given by her to the informant. Therefore, we are not inclined to entertain the application filed by the applicant No. 1 to the extent of quashing of FIR under Section 498-A.

7. So far as the prosecution of the applicants No. 1 and 2 under the provisions of the said Act, is unsustainable. Only the husband is liable to be prosecuted and not his relatives. In that view of the matter, the prosecution of the applicants No. 1 and 2 under the provisions of the Muslim Women (Protection of Rights on Marriage) Act, 2019, is hereby quashed and set aside.

8. So far as applicant No. 2 is concerned, since she is married and staying away with her husband at different place in the same city and taking into consideration vague and general allegations are levelled against her, we are inclined to allow application to her extent. The Criminal Application is, therefore, allowed to the extent of applicant No. 2 in terms of prayer clause 'C'.

9. The Criminal application is, therefore, allowed to the extent as indicated above.

(NITIN B. SURYAWANSHI, J.)

(SUNIL P. DESHMUKH, J.)