

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.119 OF 2022

1. Sanjay s/o Bansri Ranyewale
2. Shailesh s/o Bansri Ranyewale
3. Sonabai wo Bansri Ranyewale
4. Sharad s/o Bansri Ranyewale

.. Applicants

Versus

1. The State of Maharashtra,
Through Police Inspector,
Kadim-Jalna Police Station
Tq. and Dist. Jalna
2. Rekha w/o Sharad Ranyewale

.. Respondents

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Mr. A. L. Kanade, Advocate for applicants.
Mr. R. D. Sanap, APP for respondent No.1 - State.
Mr. R. P. Savale, Advocate for respondent No.2.

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**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : NOVEMBER 29, 2022.

ORDER :- [Per Smt. Vibha Kankanwadi, J.]

. Present application has been filed by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashing the FIR bearing Crime No.414 of 2021 registered with Kadim Jalna Police Station, Dist. Jalna on 31.08.2021 for the offence punishable under Sections 498-A, 504 read with Section 34 of Indian Penal Code as well as the further

proceedings in R.C.C. No.1324 of 2021 pending before the learned Chief Judicial Magistrate, Jalna.

2. Applicant Nos.1 and 2 are the brothers-in-law of respondent No.2. Applicant No.3 is the mother-in-law of respondent No.2. Applicant Nos.4 is the husband of respondent No.2.

3. Heard learned Advocate Mr. A. L. Kanade for the applicants, learned APP Mr. R. D. Sanap for respondent No.1 - State and learned Advocate Mr. R. P. Savale for respondent No.2.

4. After hearing learned Advocate for the applicants for sometime, when this Court expressed its disinclination to grant any relief in favour of applicant No.4, learned Advocate for the applicants, on instructions, seeks withdrawal of the application in respect applicant No.4. Hence, the application stands disposed of as withdrawn in respect of applicant applicant No.4. Now, the matter to proceed only for the reliefs claimed by applicant Nos. 1 to 3.

5. The informant - respondent No.2 lodged report with Kadim Jalna Police Station, Dist. Jalna on 31.08.2021 against the present applicants stating that the marriage of the informant was performed with applicant No.4 on 28.03.2004. Out of the said wedlock, she begotten two sons namely, Abhijit aged 16 and Aniket aged 13. It is further stated that she was treated properly for about three years

after the marriage, thereafter, applicant No.4 started consuming alcohol. Thereafter, she went to her parental home at Jalna along with applicant No.4. Thereafter, applicant No.4 started demanding amount of Rs.50,000/- from her parents for purchase of motorcycle. Thereafter, applicant No.4 by leaving her went to Bhivgaon, Tq. Vaijapur, Dist. Aurangabad. When she along with two children went at her matrimonial home, all the applicants told her that she should not come to home. They will manage second marriage of her husband and they abused her. It is further stated that the informant filed complaint before Women Redressal Cell, Jalna. The settlement between the informant and her husband has not taken place before the Women Redressal Cell, Jalna and therefore, she lodged FIR against the present applicants.

6. Perusal of the contents of the FIR would show that applicant Nos.1 to 3 are the brothers-in-law and mother-in-law of respondent No.2 respectively. The marriage between informant and applicant No.4 took place on 28.03.2004. In her FIR, she states that she has two children aged 16 and 13 respectively. In her FIR itself, she had stated that she was treated properly for about three years after the marriage, but thereafter applicant No.4 became addicted to liquor and, therefore, she went to her parental home at Jalna along with her husband as well as two children. This indicates that after three

years of marriage, she started residing separately from applicant Nos.1 to 3 that too in a totally different town. She then states that thereafter, the husband started demanding amount of Rs.50,000/- for purchasing motorcycle and she had put forward her inability. Thereafter, she says that two years prior to the FIR dated 31.08.2021, she was left by her husband to her matrimonial home and at that time, all the accused persons started saying that she should not reside with them as the applicant No.4 want to perform second marriage. The allegations against applicant Nos.1 to 3 are omnibus. It also gives an impression that the informant has suppressed many facts and a cryptic FIR has been lodged. It would be a futile exercise to ask applicant Nos.1 to 3 to face the trial on the basis of such cryptic FIR, which is not giving details.

7. Reliance can be placed on the decision in ***Kahkashan Kausar @ Sonam and Ors. Vs. State of Bihar and Ors., Criminal Appeal No.195 of 2022*** decided by the Hon'ble Supreme Court on 08.02.2022, wherein the decisions in ***Rajesh Sharma and Ors. Vs. State of U.P. and Anr., [(2018) 10 SCC 472]***, ***Arnesh Kumar Vs. State of Bihar and Anr., [(2014) 8 SCC 273]***, ***Preeti Gupta and Anr. Vs. State of Jharkhand and Anr., [(2010) 7 SCC 667]***, ***Geeta Mehrotra and Anr. Vs. State of UP and Anr., [(2012) 10 SCC 741]*** and ***K. Subba Rao Vs.***

The State of Telangana, [(2018) 14 SCC 452] have been considered and it has been observed thus :-

"18. The above-mentioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no *prima facie* case is made out against them."

8. Taking into consideration the above noted decisions, we are of the opinion that the ingredients of offence punishable under Section 498-A of IPC are not attracted as against the applicant Nos.1 to 3. Therefore, in our view, this is a fit case wherein we should exercise our discretion under Section 482 of the Code of Criminal Procedure to quash and set aside the the FIR and the proceedings arising therefrom as against the applicant Nos.1 to 3. Hence, the following order :-

ORDER

I) Application stands allowed in respect of applicant Nos.1 to 3.

II) Application stands disposed of as withdrawn in respect of applicant No.4.

III) The FIR bearing Crime No.414 of 2021 dated 31.08.2021 registered with Kadim-Jalna Police Station, Dist. Jalna for the offences punishable under Sections 498-A, 504 read with Section 34 of IPC as well as the further proceedings in R.C.C. No.1324 of 2021 pending before the learned Chief Judicial Magistrate, Jalna stand quashed and set aside, as against applicant Nos.1 to 3.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm