

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

CRIMINAL APPLICATION NO.370 OF 2022

GOPAL SAMBHAJI KOKANE AND OTHERS ..APPLICANTS

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER ..RESPONDENTS

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Mr. Govind G. Suryawanshi, Advocate for the Applicants.

Mr. S. J. Salgare, APP for Respondents-State.

Mr. S. B. Deshpande, Advocate for Respondent No.2.

...

CORAM : SARANG V. KOTWAL

AND

BHARAT P. DESHPANDE, JJ.

DATED : 11th JULY, 2022.

PER COURT:-

1. Leave to amend. Amendment to be carried out forthwith.

2. This is an application for quashing of the proceedings vide R.C.C. No. 19/2021 pending before the Judicial Magistrate First Class, Dharmabad, District Nanded arising out of C.R. No. 0073/2021 registered at Dharmabad Police Station, Dharmabad, Dist. Nanded, for the offences punishable under Sections 498-A, 323, 506 r/w Section 34 of the Indian Penal Code (I.P.C. for short).

3. Heard learned counsel for the parties.

4. The applicants are facing allegations of commission of offences punishable under Section 498-A, 323, 506 r/w Section 34 of the I.P.C. At the outset, learned counsel for applicants submitted that, application on behalf of applicant nos.1, 2 and 3 is already withdrawn and present application now survives only for applicant nos.4 to 8. FIR is lodged by respondent no.2 herein. She was married to applicant no.1-Gopal. The applicant no.4-Ravikant is his brother, applicant no.5-Rajabai is his sister, applicant no.6-Uttamrao is applicant no.5's husband, applicant no.7-Vishwanath is Gopal's uncle and applicant no.8-Anusaybai is Gopal's cousin.

5. The respondent no.2 has stated in her FIR that, she got married with Gopal on 19.02.2017. At the time of marriage, her parents spent for expenses, articles, ornaments etc. Thereafter, she became pregnant. She was residing with her husband Gopal, mother-in-law, father-in-law and applicant no.4-Ravikant who is her brother-in-law. They started harassing her on petty issues. Gopal started demanding Rs.10,00,000/- for getting a job. He demanded that money from her parents. The respondent no.2 refused to fulfill the demand. Therefore, she had to face harassment at the hands of husband's relatives staying with her. After sometime she gave birth to her daughter. Then she

came to her matrimonial house. Her husband assaulted her. The husband, mother-in-law, father-in-law were suspecting paternity of her daughter and started harassing her mentally and physically. Thereafter, there was meeting between two families and it was decided that, the respondent no.2 and applicant no.1 would reside separately at Deglur. Again there, the husband started suspecting her character and started assaulting her. He removed her ornaments. After that she was taken back to her parents house. It is her case that, after she had delivered her child, the other applicant nos.5 to 8 harassed her whenever they visited her matrimonial house. The applicant no.8-Anusayabai used to instigate respondent no.2's husband Gopal by telling him that the respondent no.2 was having relations with other boys. On this allegation FIR is registered.

6. Learned counsel for the applicants submits that, applicant nos.5 to 8 were residing elsewhere and they used to occasionally visit the house of the respondent no.2.

7. Learned counsel for respondent no.2 as well as learned APP submitted that, applicant no.4-Ravikant was residing in the same house and therefore, allegations against him regarding harassing respondent no.2 in matrimonial house are specific. They further submitted that, even against applicant no.8-Anusayabai there are

allegations that, she used to instigate respondent no.2's husband by telling him false story about her. Therefore, even her case stand on different footing from applicant nos.5, 6 and 7. As far as these three applicants are concerned, they are residing elsewhere. Whenever they visited the matrimonial house of respondent no.2 they harassed respondent no.2 and therefore, offence is made out against them.

8. We have considered these submissions. We have also perused the charge-sheet. The charge-sheet shows statements of the informant, relatives and family friends. They are father-Baburao, mother-Laxmibai, sister-Gaurabai, brother-Anil and family friends-Sayabu, Sanjay, Govindrao and Vyankatrao. All their statements are similar and they repeat the allegations made in the FIR.

9. As far as applicant no.4-Ravikant is concerned, he is residing in the same matrimonial house and at the very first instance there are allegations made against him that, he alongwith husband, mother-in-law and father-in-law started harassing the respondent no.2. Therefore, we are not inclined to grant relief to him.

10. As far as the other four applicants are concerned, they are not residing in the same house. They are residing elsewhere. Applicant no.5-Rajabai is a married sister. Applicant nos.7 and 8

are uncle and cousin of husband-Gopal. Applicant no.6-Uttamrao is Applicant no.5-Rajabai's husband. Their names appeared to be roped in only because they are relatives of husband and to put pressure on the family. The allegations against them are vague and general. They were not continuously in touch with the husband's family. Hence, in this view of the matter, proceedings against them need not be continued and can be quashed. Hence, the following order:

ORDER

- a. The application for applicant no.4 is dismissed.
- b. The application for applicant nos.1, 2 and 3 was already withdrawn and therefore, it does not survive in respect of them.
- c. The proceedings in connection with R.C.C. No. 19/2021 pending before the Judicial Magistrate First Class, Dharmabad, District Nanded arising out of C.R. No. 0073/2021 registered at Dharmabad Police Station, Dharmabad, Dist. Nanded, for the offences punishable under Sections 498-A, 323, 506 r/w Section 34 of the Indian Penal Code are quashed in respect of applicant no.5-Rajabai w/o. Uttamrao Suryawanshi, applicant no.6-Uttamrao S/o. Mashnaji Suryawanshi, applicant no.7-Vishwanath S/o. Naganna Karande and

applicant no.8-Anusaybai W/o. Rajendra Ure
only.

11. Criminal Application is disposed of.

(BHARAT P. DESHPANDE)
JUDGE

(SARANG V. KOTWAL)
JUDGE

Devendra/July-2022