

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

959 CRIMINAL APPLICATION NO.449 OF 2022

NOMAN KHAN S/O KARAMAT KHAN PATHAN AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. S.R. Sapkal, Advocate for applicants

Mr. S.J. Salgare, APP for respondent No.1

Mrs. Rashmi S. Kulkarni, Advocate for respondent No.2

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

DATE : 29th NOVEMBER, 2022

ORDER :

1 By invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973 the applicants are seeking quashment of the First Information Report as well as proceedings against them. It will not be out of place to mention here itself that by order dated 28.02.2022 this Court allowed the applicant No.1 (husband of respondent No.2) to withdraw the application and, therefore, the matter proceeded for the reliefs claimed by applicant Nos.2 to 4.

2 Applicant No.2 is mother-in-law, applicant No.3 is father-in-law and applicant No.4 is sister-in-law of respondent No.2. On the basis of First Information Report lodged by respondent No.2 Crime No.425/2021 came to be registered with Nanalpeth Police Station, Dist. Parbhani, for the offence punishable under Section 498-A, 354-C, 354, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860 and under Section 3, 4 of the Dowry Prohibition Act, 1961 and after the completion of the investigation, during the pendency of the present petition, charge sheet has been filed before learned Judicial Magistrate First Class, Parbhani bearing Regular Criminal Case No.466/2022.

3 Heard learned Advocate Mr. S.R. Sapkal for applicants, learned APP Mr. S.J. Salgare for respondent No.1 and learned Advocate Mrs. Rashmi S. Kulkarni for respondent No.2.

4 We have perused the entire charge sheet including the First Information Report. In the First Information Report respondent No.2 – informant has made specific allegations not only against applicant No.1 – husband but also against the applicant Nos.2 to 4. She has stated that after her marriage she was residing with the applicants and since the next date of marriage the husband was harassing her, mentally, by abusing her and by

saying that proper honour was not given and the marriage is not performed as per their wish. Since the application has been withdrawn as against applicant No.1, we do not want to reproduce those allegations, which are specifically against him. However, as regards the applicant Nos.2 and 3 i.e. parents-in-law are concerned, she adds that along with the husband they were harassing her on the count of demand of Rs.10,00,000/- to be brought for opening a medical shop, since her husband is D.Pharm. She has also stated that she was harassed for about six months by abuses, assault, keeping her starving, in order to fulfill the demand of Rs.10,00,000/- thereafter. She has also stated that the mother-in-law used to give her some sedative as well as injections were given for not to conceive. As regards father-in-law is concerned, she states that he used to call her alone in the room and used to misbehave with her. As regards the sister-in-law is concerned, it is stated that she is the medical practitioner and she used to give the injection. It is also then stated that there was demand to bring a mobile phone, a car and to transfer the house of her father in the name of the husband. The contents of the First Information Report as well as charge sheet which contains the statements of witnesses support her.

5 It has been then contended on behalf of the applicants that the husband has filed a petition under Section 2 of the Muslim Personal Law

(Shariat) Application Act, 1937 before the Family Court at Parbhani to permit him to pronounce single Talaq in the form of TALAQ-E-AHSAN. It is also stated that respondent No.2 had some illicit relations and a video clip about her acknowledgment is prepared and then it is submitted before the Superintendent of Police by the father-in-law along with his application dated 25.06.2021 and then the First Information Report came to be lodged. A compact disk as well as transcript has also been produced along with the petition, however, it is to be noted that it is not accompanied by any certificate under Section 65-B of the Indian Evidence Act. So also, it cannot be considered at this stage as it requires proof.

6 In view of the fact that there are specific allegations and there is evidence against the applicant Nos.2 to 4 also, this is not a fit case where we should exercise our inherent powers under Section 482 of the Code of Criminal Procedure. Application stands rejected.

(Abhay S. Waghware, J.)

(Smt. Vibha Kankanwadi, J.)