

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

943 CRIMINAL APPLICATION NO.572 OF 2022

**ASHWINI AJAYKUMAR BIRAJDAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Advocate for Applicant: Mr. Kulkarni Ashutosh S.
APP for Respondent No.1: Mr. P. K. Lakhotiya
Advocate for Respondent No.2: Mr. S. D. Munde

...

**CORAM: SARANG V. KOTWAL &
BHARAT P. DESHPANDE, JJ.**

DATE: 19th JULY, 2022

PER COURT:

1. This is an Application for quashing and setting aside the F.I.R. registered vide C.R. No.0215 of 2021 dated 27.12.2021 registered at Parli City Police Station, Parli Vaijanath, Taluka and District Beed under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code, 1860. The investigation was carried out and the charge-sheet was filed bearing No.9 of 2022 dated 19.02.2022. By an amended prayer the Applicant also prayed for quashing of that particular charge-sheet as well.

2. Learned APP has produced a Report of the Investigating Officer wherein it is mentioned that the case is pending vide R.C.C. No.38 of 2022 before the Judicial Magistrate First Class, Parli Vaijanath. Thus, the Application is for quashing all these proceedings.

3. Heard learned Counsel for the parties.

4. The F.I.R. is lodged by Respondent No.2. She has stated that she got married on 19.01.2020 with one Yashwant Ashok Deokar. She was residing at Solapur with her husband, mother-in-law, two brothers-in-law and their wives. She has a daughter aged 1 year at the time of lodging of the F.I.R. Her father-in-law expired on 27.10.2020. According to the first informant, her husband used to continuously talk on mobile phone with somebody. When she questioned him, the husband used to assault her and did not provide food to her. The informant told this to her father and her father's friends. They came to him - the husband, in September 2021, but even they were

abused and threatened. The husband asked her father to pay Rs.5,00,000/- to purchase a flat and told him that, he would continue harassing the informant. It is mentioned in the F.I.R. that all the relatives of the husband and the husband himself continuously harassed her, assaulted her and deprived her from proper food.

The F.I.R. refers to the Applicant as the informant's husband's friend. It is the informant's case that the Applicant used to call her telephonically and used to abuse her. The applicant used to come to his matrimonial house and used to tell her husband to leave the informant at the earliest and that she would look after the informant's child. After that the husband dropped the informant to her parents house on 18.07.2021. On 22.07.2021, the husband and his aunt came to the informant's father's house. There also they abused her and assaulted her - the informant and repeated their demand of Rs.5,00,000/-. On this basis, the F.I.R. is lodged.

5. Learned Counsel for the Applicant submitted that the Applicant would not fall within the four corners of Section 498-A of the Indian Penal Code, 1860 because she is not relative of the informant's husband. He submitted that there are no allegations against her attracting any of the Sections applied in this case. None of the ingredients of Section 504 or 506 or even 323 of the Indian Penal Code, 1860 are made out against the present Applicant. There are no details about conversation between the Applicant and the informant mentioned in the F.I.R. He submitted that continuation of proceedings against the Applicant is clearly an abuse of process of law.

6. Learned Counsel for Respondent No.2 — informant as well as learned APP opposed this Application.

7. They submitted that the Applicant used to instigate the informant's husband and, therefore, she was a major force behind this harassment. They

submitted that, at this stage the proceedings cannot be quashed against the Applicant.

8. We have considered these submissions and we have perused the charge-sheet which contains statements of the informant's father - Uttam Motiram Pawar, mother - Rajshri Uttam Pawar, family friends - Guddu Uddhav Chavan and Dhanraj Kamana Shinde. All these statements are based on the information provided to these witnesses by the first informant.

9. We have reproduced the allegations in the FIR. As rightly submitted by the learned Counsel for the Applicant, she is not a relative of the informant's husband. Therefore, Section 498-A of the Indian Penal Code, 1860 is not attracted against her. The allegations regarding the telephonic call and abuses are quite vague. They do not show that any of the ingredients of Section 504 or 506 of the Indian Penal Code, 1860 are made out. It appears that she is roped in out of grudge which the informant was holding against the

Applicant. Therefore, continuation of these proceedings would amount to abuse of process of law and, therefore, they deserve to be quashed and set aside.

10. Hence the following order-

ORDER

[I] The Criminal Application is allowed.

[II] The proceeding bearing R.C.C. No.38 of 2022 pending before the Judicial Magistrate First Class, Parli Vaijanath arising out of C.R. No.0215 of 2021 registered at Parli City Police Station, Parli Vaijanath, Distirct Beed is quashed and set aside *qua* the present Applicant only.

11. The Criminal Application is disposed of.

[BHARAT P. DESHPANDE, J.] [SARANG V. KOTWAL, J.]
marathe