

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

CRIMINAL APPLICATION NO.353 OF 2021

**RAJENDRA @ RAJU S/O. RAMESH SHELKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicants : Mr. Aniruddha A. Nimbalkar
APP for Respondent No.1 - State : Mr. M. M. Nerlikar
Advocate for Respondent No.2 : Mr. S.R. Dheple h/f. Mr. P. R. Nangare

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**CORAM : MANGESH S. PATIL AND
ABHAY S. WAGHWASE, JJ.**

DATED : 17 NOVEMBER 2022

PER COURT :

Heard both the sides.

2. Applicants are seeking quashment of crime registered pursuant to the FIR bearing No.6166 of 2020 lodged by respondent No.2 for the offences punishable under sections 498-A, 323, 504, 506 and 34 of Indian Penal Code, registered with Kotwali Police Station, Ahmednagar and the consequent Regular Criminal Case No. 10 of 2021 pending on the file of the learned Additional Chief Judicial Magistrate at Ahmednagar.

3. In the FIR lodged in the year 2020, respondent no.2 has alleged that she was married to applicant no.1 in the year 2011. She was maintained properly for first year. She was subjected to cruelty thereafter by raising a

demand for money for purchasing a car. Though she undertook further education at the expense of her father, there was no change in the approach of the applicants. She then got pregnant and subsequently delivered, but the applicants never turned up to take her back and specifically declared that they would not permit her to resume the matrimonial tie unless they get the money.

4. Learned advocate for the applicant submits that there is abnormal delay in lodging the FIR. Admittedly, respondent No.2 has been residing with her parents since 2015 and has lodged the FIR in the year 2020. Already the husband – applicant No.1 has instituted a proceeding for divorce in the year 2016 and to set that at naught, a concocted and belated FIR has been lodged without attributing specific and precise allegations and giving any details about the alleged ill treatment. It would be abuse of the process of court and law if the applicants are permitted to be prosecuted in this matter.

5. Learned APP and the learned advocate for respondent No.2 submit that at this juncture, no inference can be drawn. Investigation has been completed. There are allegations against each of the applicants, who have been made accused. The prosecution needs to be extended an opportunity of substantiating the allegations by leading evidence, which can happen only during trial.

6. We have carefully considered the rival submissions.

7. When we expressed our disinclination to grant any relief to applicant Nos.1 to 3 i.e. husband and parents-in-law, their learned advocate, on instructions, seeks leave to withdraw the application to their extent.

8. So far as rest of the applicants are concerned, they are married sisters and maternal uncle of the husband - applicant No.1. The allegations in respect of them are indeed vague and omnibus. Their names have been jointly mentioned with the other applicants to say that they all have subjected her to cruelty.

9. Similar are the vague and omnibus statements of the witnesses, who are the parents of respondent No.2. They have also not given any details attributing specific and exclusive role to the applicant Nos.4 to 6.

10. In similar set of facts, where there were equally vague and omnibus allegations, in the matter of ***Kahkashan Kausar alias Sonam and others v. State of Bihar and others*** ; (2022) 6 SCC 599, the Supreme Court has taken the following view in para no.18 :

“18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that “all accused harassed her mentally and threatened her of terminating her pregnancy”. Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made

against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.”

11. In view of above, the application is partly allowed. The application to the extent of applicant Nos.1 to 3 is dismissed as withdrawn. The Crime vide FIR No.6166 of 2020 for the offences punishable under sections 498-A, 323, 504, 506 and 34 of Indian Penal Code, registered with Kotwali Police Station, Ahmednagar and the consequent Regular Criminal Case No. 10 of 2021 are quashed and set aside to the extent of applicant Nos.4 to 6.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)

Tandale/-