

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.513 OF 2021

1. Ganesh s/o Sitaram Raut
2. Sitaram s/o Sakharam Raut
3. Tarabai w/o Sitaram Raut
4. Ramdas s/o Sitaram Raut
5. Manisha w/o Ramdas Raut
6. Sangita w/o Hanuman Walunjkar
7. Mangal w/o Parshuram Kashid
8. Alka w/o Ravindra Raykar

... Applicants

Versus

1. The State of Maharashtra
Through its Secretary,
Home Department, Mantralaya Mumbai.
2. The Superintendent of Police,
Aurangabad (Rural), Aurangabad.
3. The Police Inspector,
Police Station Chikalthana, Aurangabad.
4. Sayli w/o Ganesh Raut.

... Respondents

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Mr. Abhay G. Deshmukh, Advocate for applicants.
Mr. S. D. Ghayal, APP for respondent Nos.1 to 3.
Mr. Vikrant Palsikar, Advocate for respondent No.4.

...

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

DATE : DECEMBER 06, 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.449 of 2020 registered with Chikalthana Police Station, Dist. Aurangabad on 11.12.2020 for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code (for short "IPC") as well as the further proceedings in R.C.C. No.1042 of 2021 pending before the learned Chief Judicial Magistrate, Aurangabad.

2. Heard learned Advocate Mr. Abhay G. Deshmukh for the applicants, learned APP Mr. S. D. Ghayal for respondent Nos.1 to 3 - State and learned Advocate Mr. Vikrant Palsikar for respondent No.4.

3. After hearing learned Advocate for the applicants for sometime, when this Court expressed its disinclination to grant any relief in favour of applicant Nos.1 to 4, learned Advocate for the applicants, on instructions, seeks withdrawal of the application in respect applicant Nos.1 to 4. Hence, the application stands disposed of as withdrawn in respect of applicant Nos.1 to 4. Now, the matter to proceed only for the reliefs claimed by applicant Nos.5 to 8.

4. Perusal of the FIR would show that the applicant No.5 is the wife of the brother of applicant No.1 and applicant Nos.6 to 8 are the sisters of the husband of the informant. No doubt the applicant No.5 was also residing with applicant No.4 in respect of whom this Court has shown its disinclination to grant any relief, yet it is on the

basis of the allegations made. Applicant No.5, being herself the daughter-in-law of the house, why she would have harassed respondent No.4, is a question. The demand of money appears to be for the sake of husband to purchase Bullet motorcycle. Even if we have to take it into account that such demand would have been made, it would have been by the husband, mother-in-law and with wild imagination by the brother of the husband. It could not have been supported by the wife of the brother-in-law. Another fact that is required to be considered is as regards the sisters are concerned, there are omnibus allegations. Perusal of the entire charge-sheet would show that the other family members of the informant i.e. her mother, father etc. have echoed. Under such circumstance, it would be unjust to ask applicant Nos.5 to 8 to face the trial.

5 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."

6. 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.5 to 8. 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.5 to 8. Hence, the following order :-

ORDER

I) Application stands allowed in respect of applicant Nos.5 to 8.

II) Application stands disposed of as withdrawn in respect of applicant No.1 to 4.

III) The FIR bearing Crime No.449 of 2020 dated 11.12.2020 registered with Chikalthana Police Station, Dist. Aurangabad for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of IPC as well as the further proceedings in R.C.C. No.1042 of 2021 pending before the learned Chief Judicial Magistrate, Aurangabad stand quashed and set aside, as against applicant Nos.5 to 8.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm