

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.874 OF 2022

1. Sudhhmati Harbansingh Tak
 2. Poonam Gowardhan Tak
 3. Gowardhan s/o Harbansingh Tak
 4. Karishma Kunal Rajput
 5. Sumabai Bhagatsingh Chavan
- .. Applicants**

Versus

1. The State of Maharashtra
Through Investigation Officer,
Paithan Police Station, Tq. Paithan,
Dist. Aurangabad.
 2. Nandani Yash Tak
- .. Respondents**

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Mr. R. V. Gore, Advocate for applicants.
Mr. B. V. Virdhe, APP for respondent No.1 - State.
Mr. S. B. Choudhari, Advocate for respondent No.2.

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

DATE : DECEMBER 2, 2022.

ORDER :- [Per Smt. Vibha Kankanwadi, J.]

. Present application has been filed by the relatives of the husband of respondent No.2 under Section 482 of the Code of Criminal Procedure for quashing the FIR bearing Crime No.279 of 2019 dated 04.08.2019 registered with Paithan Police Station, Dist. Aurangabad for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code (for short

"IPC") as well as the criminal proceedings i.e. R.C.C. No.526 of 2019 pending before the learned Judicial Magistrate First Class, Paithan, Dist. Aurangabad.

2. Heard learned Advocate Mr. R. V. Gore for the applicants, learned APP Mr. B. V. Virdhe for respondent No.1 - State and learned Advocate Mr. S. B. Choudhari for respondent No.2.

3. After hearing learned Advocate for the applicants for some time, when this Court expressed its disinclination to grant any relief in favour of applicant Nos.2 and 3 i.e. father-in-law and mother-in-law, learned Advocate for the applicants seeks withdrawal of the application in respect of applicant Nos.2 and 3. Under such circumstance, the matter proceeded for the reliefs claimed by respondent Nos.1, 4 and 5.

4. Applicant No.1 is the grandmother-in-law of respondent No.2. Applicant No.4 is the sister-in-law of respondent No.2 and applicant No.5 is another grandmother-in-law of respondent No.2 i.e. mother's mother of husband.

5. Perusal of the FIR lodged by respondent No.2 on 04.08.2019 would show that her marriage was performed with Yash Tak on 16.02.2017. She has stated that she was treated properly for about 7 to 8 months and, thereafter, all the accused persons started

harassing her by saying that she is unable to cook, she is of no help and she should bring amount of Rs.2,00,000/- for opening a company. She then makes allegations against the husband about assault and abuses. She further states that she became pregnant and then all the accused used to give pinching words to her by saying that the child is not begotten from the husband and she should bring money from her parents. She states about the incident dated 21.09.2018 when her husband under the influence of liquor had assaulted her on the instigation of the other accused and she was then driven out of the house. She has then stated that her parents are residing nearby. She was taken to home by her parents, uncle and aunt. She gave birth to son, but according to her the accused persons had not even came to see the child. She has then stated that she lodged an application to Women Safety Cell, Aurangabad (Rural). As nobody came from the accused side, her application was treated as FIR.

4. Perusal of the charge-sheet would show that her parents, uncle and aunt in echo voice have stated the same things. The fact remains is that even the parents are from the same area, however, their statement is silent as to what efforts they had made for the settlement of dispute of their daughter. Further, if we consider the application that was given by informant to Superintendent of Police,

Aurangabad (Rural) on 24.05.2019, it is totally silent in respect of alleged demand of Rs.2,00,000/- for opening company. Main allegations therein are against the husband and it is said that under the influence of liquor, he used to raise doubt about her chastity. It is then stated that the other members in her matrimonial home were instigating the husband on trifle matters and they used to make the informant and her husband fight. No specific role is attributed to applicant Nos.1, 4 and 5 in her application dated 24.05.2019. Even in the FIR which is subsequently filed, no specific role can be said to be attributed to applicant Nos.1, 4 and 5. Applicant No.1 is the husband's father's mother and applicant No.4 is the sister-in-law. It appears that applicant No.4 is a married sister-in-law, but residing in the same area. The informant has suppressed when sister-in-law got married, but taking into consideration her name mentioned in the FIR, it appears that she got married prior to the marriage between the informant and her husband. The question is though applicant No.4 might be residing in the same area, why she would come frequently and intervened in the married life of her brother. Respondent No.5 is the husband's mother's mother residing in the same area. Both the grandmothers are around 70 years old and taking into consideration the vague allegations, it would be unjust to ask them 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."

8. Therefore, 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.1, 4 and 5. 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 FIR and the proceedings arising therefrom as against the applicant Nos.1, 4 and 5. Hence, the following order :-

ORDER

I) Application stands allowed in respect of applicant Nos.1, 4 and 5.

II) Application stands disposed of as withdrawn in respect of applicant Nos.2 and 3.

III) The FIR bearing Crime No.279 of 2019 dated 04.08.2019 registered with Paithan 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 criminal proceedings i.e. R.C.C. No.526 of 2019 pending before the learned Judicial Magistrate First Class, Paithan, Dist. Aurangabad, stand quashed and set aside, as against applicant Nos.1, 4 and 5.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm