

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

CRIMINAL APPLICATION NO. 722 OF 2020

1. Nilesh s/o Balkishna Lad
Age: 33 years, Occu.: Service,
2. Balkishan s/o Baburao Lad
Age: 75 years, Occu.: Agri.,
3. Amresh S/o Balkishan Lad
Age: 32 years, Occ: Agri.,
4. Priti w/o Amresh Lad
Age: 29 years, Occ.: Household,
Applicant no.1 to 4, R/o. Near Varsha
Electronics,
Indra Gandhi Nagar, Parbhani.
5. Mira w/o Arun Chavan
Age: 44 years, Occu.: Household,
R/o. Pimpalgaon Likha, Gaur Nagar,
Parbhani.
6. Manisha w/o Santosh Chavan
Age: 38 years, Occu.: Household,
R/o. Near Jabreshwar Temple, Bhalerao
House, Wad Galli, Parbhani
7. Charushila w/o Shrinivas More
Age: 34 years, Occu.: Household,
R/o House no.3-10-363/3A, Vivekanand Nagar,
Nizambad, Andhara Pradesh.
8. Shriram s/o Balabhau Naik
Age: 58 years, Occu.: Agri.,
R/o Sahu Nagar, Pathri,
Taluka – Pathri, Dist.Parbhani.
9. Sneha d/o Arun Chavan
Age: 21 years, Occu.: Education,
R/o. Pimpalgaon Likha, Gaur, Parbhani.

10. Smita d/o Arun Chavan
Age: 17 years, Occu.: Education,
R/o. Pimpalgaon Likha, Gaur,
Parbhani.
Under guardian of applicant no.5 mother. **... Applicants**
(Ori. Accused No.1 to 10)

Versus

1. The State of Maharashtra
Through the Police Sub Inspector,
Mondha Police Station,
Tq. & Dist. Parbhani.
2. Vijayalakshmi Nilesh Lad
Age: 25 years, Occu.: Household/Education,
R/o. Krushi Sarthi Colony,
Parbhani, Tq. & Dist. Parbhani. **... Respondents**
(Ori. Complainant)

...
Mr. Sandeep B. Sontakke, Advocate for Applicants.
Mr. S. J. Salgare, APP for Respondent No.1-State.
Mr. J. M. Murkute, Advocate for Respondent No.2

...

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

DATE : 19th December, 2022

JUDGMENT (PER ABHAY S. WAGHWASE, J.) :

1. By way of instant application, inherent powers of this Court under Section 482 of Code of Criminal Procedure (Cr.P.C.) are invoked by the applicants herein to quash and set aside FIR No. 34 of 2020 lodged at the instance of respondent no.2 with Mondha Police Station, Taluka and District

Parbhani for the offences punishable under Sections 498-A, 323, 504 r/w 34 of the Indian Penal Code (IPC) as well as the consequential proceedings.

2. Brief facts leading to the present case are as under :

Respondent no. 2 was married to applicant no.1 Nilesh Lad on 29.01.2020. After narrating the expenses incurred in the marriage, she has informed the police that she went to reside with her husband as well as in-laws, who resided jointly, except applicant nos. 5 to 10. According to her, after one and half month of marriage, there was taunting about she being unable to properly cook and about her bad looks. It is further alleged that she was subjected to mental cruelty. She claims that thereafter she went to reside at Pune with her husband. She has alleged that her in-laws instigated husband on phone and in such background, husband used to abuse her and beat her. She claims that she had been to her maternal house to appear for some examination and when she returned back, at that time applicants abused and insulted her and her father and they were driven out of the house. A joint meeting was held and thereafter she went to Pune to cohabit with her husband on 25.07.2018. She claims that her husband never maintained physical intimacy with her. Thereafter, again her sisters-in-law started instigating the husband and he, in return, started subjecting her to mental and physical cruelty as he did earlier. Lastly, she alleges that put up demand of

Rs.10,00,000/- for going to Canada and on refusal by her, he stripped her of her *stree dhan* and dropped her to her maternal house and declared that he is not willing to continue the marriage. Hence the complaint.

The above FIR and the consequential proceedings are now sought to be quashed.

3. Learned Advocate for the applicants would point out that the FIR is false, baseless and full of afterthought allegations. It is emphasized that the informant stayed with her husband separately but entire family has been roped in with ulterior motive. None of the relatives named in the FIR had indulged in any taunting, commenting or demand. It is pointed out that the FIR is full of general, omnibus allegations without specifying the instances or role played by each of the applicants. The allegations are levelled after considerable delay. Even persons who had no concern with the routine and daily affairs of husband and wife are also named only with the sole intention to harass them. According to learned Advocate for the applicants, present FIR is nothing but abuse of process of law and therefore relief as sought is required to be granted.

4. On behalf of the State, learned APP submitted that the FIR carries names of all applicants, including husband. Shortly after a month or so of marriage, all applicants subjected the informant to mental cruelty. There was

continuous taunting and harassment to her on some or other count. It appears that husband was not interested in continuing the marriage. All other applicants herein have also joined him in maltreating the informant. All details are finding place in the FIR. Even investigating machinery has, upon investigation, found that offence as alleged has been committed. Therefore, according to him, it is not a fit case for exercise of powers under Section 482 of Cr.PC. and he prays for dismissal for the application.

5. On behalf of respondent no.2, learned Advocate Mr. Murkute also argued on the same lines and pointed out that husband and in-laws jointly subjected the informant to physical and mental cruelty. Her life was made miserable. She was driven out of the house. When her father came to drop her, at that time, he too was insulted. Therefore, there being clear allegations of harassment, he submitted that, present prosecution needs to be taken to its logical end and accused must face legal action for their deeds. Hence, he prayed to dismiss the application.

6. In catena of judgments, including *State of Haryana and others v. Ch. Bhajan Lal* ; AIR 1992 SC 604, *Inder Mohan Goswami and Anr. Vs. State of Uttaranchal and Ors.* ; (2007) 12 SCC 1, *Priya Vrat Singh Vs. Shyam Singh Sahai* ; (2009) SCC Suppl. 709 and *Vineet Kumar v. State of U.P.* ; (2017) 13 SCC 369, the Hon'ble Apex Court has time and again reiterated that inherent

powers under section 482 of Cr.P.C. can be exercised by the High Court; *firstly*, to give effect to an order under Cr.P.C., *secondly*, to prevent abuse of process of court and *thirdly*, to secure ends of justice.

7. The Hon'ble Apex Court in the very recent case of ***Kahkashan Kausar alias Sonam and others v. State of Bihar and others*** ; (2022) 6 SCC 599, after dealing with the observations in the cases of ***Geeta Mehrotra Vs. State of U.P.***; (2012) 10 SCC 741, ***Preeti Gupta v. State of Jharkhand*** ; AIR 2010 SC 3362 and ***K. Subba Rao v. The State of Telangana*** ; (2018) 14 SCC 452, has succinctly culled out proposition and the same is appearing in para no. 18 which reads as under :

“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.”

8. In the light of the scope of object of the provisions under Section 482 of Cr.P.C. and the settled law therein, we are required to examine whether *prima facie* prosecution initiated against present applicant nos. 2 to 10 is abuse of process of law. Accordingly, we proceed to scrutinize the FIR and investigation papers.

9. The FIR dated 28.01.2020 shows that respondent no.2-informant was married to present applicant no.1 on 29.01.2020 and she came to reside with her husband. According to her, her father spend Rs.25,00,000/- for the marriage and gave 13 *tola* golden articles and Rs.15,00,000/- cash. She came to reside with her husband and joint family at Parbhani. According to her, though her sisters-in-law and some of the applicants reside at different places, they were regular visitors to their house. She has alleged that all persons named in the FIR were intermittently taunting her and saying that she is unable to cook properly, she has not been taught to cook properly and also passing comments on her looks. She has alleged that she started residing with her husband at Pune. At that time, all applicants regularly telephoned her husband and instigated him and poisoned his mind and only because of it, her husband used to beat her. She has alleged beating and mental harassment

against husband while her stay at Pune. She claims that when her father accompanied her to drop her at her house, at that time, her father was abused and even driven out of the house. When joint meeting was held, which was attended by family members of both sides, they agreed to treat her properly. However, when she went back to Pune, she was again ill-treated by her husband on instigation of all in-laws. Finally, there are allegations about demand of money attributed to the husband. Hence the complaint.

It is evident from the FIR that husband is in service at Pune. From the FIR it is emerging that informant came to reside with her in-laws at Parbhani and she has alleged that all applicants named in the FIR were visiting the place of her in-laws. According to her, after one and half month of the marriage, intermittently there was taunting on account of inability to cook and there were comments on her looks. She has stated that she shifted to Pune to co-habit with her husband and there, she claims that, persons named in the FIR, who are sisters-in-law, their children and maternal uncle of husband used to telephone her husband and instigate him. However, sister-in law Meera seems to be resident of Shehasharda Nagar, Parbhani, sister-in-law Manisha is resident of Wadgalli, Parbhani, sister-in-law Charushila is resident of Vivekanand Nagar, Nizambad, Telangana, uncle Shriram is resident of Jaitapur, Pathri and as such, these applicants are obviously residents of different places. As to when said episodes of instigation on phone occurred is not clarified in

the FIR. Which of them did what and who said what is also not stated in the FIR but all are named in the FIR. In fact, allegations seem to be directed against applicant husband but as stated above, he has withdrawn himself from the present proceedings. We are convinced that no specific roles are attributed to applicant nos. 2 to 10. Allegations against them are either general, omnibus or sweeping in nature. With such material on record, we are of the opinion that *prima facie* impleadment of applicant nos. 2 to 10 is without any substance or major allegations. Consequently, prosecution of such applicants would result into miscarriage of justice. Deriving strength from the observations of the Hon'ble Apex Court in the case of ***Kahkashan Kausar alias Sonam and others*** (supra) we consider it a fit case for grant of relief to applicant nos. 2 to 10. Hence we proceed to pass the following order:

ORDER

- (I) Application is partly allowed.
- (II) Application of applicant no.1 is disposed of as withdrawn.
- (III) Application to the extent of applicants nos. 2 to 10 is allowed in terms of prayer clauses [A] and [A-2].
- (IV) Application is accordingly disposed of.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)