

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

CRIMINAL APPLICATION NO. 760 OF 2020

1. Sau. Nitu Sanjay Khenwar,
Age. 39 years, Occ. Household,
R/o. Paradshingi, Tq. Katol, Dist. Nagpur.
2. Sanjay Hanuman Khenwar,
Age. 47 years, Occ. Rikshaw Driver,
R/o. Paradshingi, Tq. Katol, Dist. Nagpur.
3. Sau. Neha Amol Puniya,
Age. 32 years, Occ. Household,
R/o. Ward No. 4, Kumbarpura, Post Rethpur,
Dist. Amrawati.
4. Amol Lalsing Puniya,
Age. 34 years, Occ. Labour,
R/o. Ward No. 4, Kumbarpura,
Post Rethpur, Dist Amrawati.Applicants

Versus

1. The State of Maharashtra.
2. Sou. Manisha Jitendra Rohile,
Age. 28 years, Occ. Household,
R/o. at post Kulthe, Tq. & Dist. Dhule.Respondents

Advocate for Applicants : Mr. V.B. Anjanwatikar

APP for Respondent No.1 : Mr. A.M. Phule

Advocate for Respondent No. 2 : Mr. Sahil Choudhari h/f.

Mr. Deepak Choudhari

**CORAM : SMT. VIBHA KANKANWADI &
RAJESH S. PATIL, JJ.**

DATE : 03.10.2022.

JUDGMENT [PER : RAJESH S. PATIL, J] :

1. By the present Application filed under Section 482 of the Code of Criminal Procedure, the applicants who are original accused are praying for quashing of FIR No. 294 2019 (CR No. 176/2019 as mentioned on charge-sheet) registered with Dhule Taluka Police Station for the offences punishable under Sections 498 (A), 323, 506 read with 34 of the Indian Penal Code, and further for quashing the charge-sheet No.206/2019 along with the proceeding bearing RCC No.739/2019 pending before the Judicial Magistrate First Class-3, Dhule.

A. FACTS :

2.1. In the FIR, the respondent No. 2/Informant stated that her marriage was solemnized with one Jitendra Rohile on 18.02.2009 by following all rituals. All the household articles and almost 20 tolas gold ornaments were given by her parents in her marriage as *stridhan*. On her husband's demand Rs.50,000/- cash were given and the marriage was done with all expenses by her parents. Out of the said wedlock, they have two children. After marriage, she started cohabiting with her husband and in-laws. Informant's husband, mother-in-law and all the applicants were staying together. It is alleged that for the period of one year, her husband, mother-in-law and all the applicants treated her well. Thereafter, her mother-in-law and the applicants used to say that she should do job and earn Rs. 25,000/- to 30,000/- per month. Informant/Respondent

No. 2 denied to do job by telling them that she is not much literate and she cannot get any job for earning. For that reason, all family members started ill-treating and abusing her. Applicant Nos. 1 and 3 used to torture her on one or the other household counts and used to say that she should bring Rs. 50,000/- for her livelihood. She also got the knowledge about there being illicit relations of her husband with one Kanchan Vijay Chakrawarti, and all the applicants also knew about this even though, they used to abuse the informant by saying that Jitendra will separate from Kanchan, only if she search for job; and they used to beat her by means of slaps and fists. On 16.02.2018 at about 10 a.m.. her husband started beating the informant with spade, at that time her mother-in-law and all the applicants were provoking her husband to beat her and they abused her. She told about this to her parents by making a phone call. When applicants got the knowledge that her parents are coming to meet her, they took all the ornaments from her. On 17.02.2018, her maternal uncle came to visit her matrimonial house and asked her husband and in-laws as to why they beat the informant. The applicants then abused her uncle and said that she is residing with them free of costs, and if she wants to cohabit with the husband then she should bring Rs. 50,000/- for her livelihood. When she demanded the ornaments which were snatched by the applicants, they refused to return back the ornaments and she was driven out of her matrimonial house, so also, they told that if she wants to co-habit with the husband, she will have to bring Rs.

50,000/- for her livelihood. Losing all hopes of improvements from applicants, she approached to Woman Grievance Redressal Forum. Though, notices were issued by the forum none of the in-laws appeared before the forum. Hence, she lodged the present FIR.

3.1. The applicants are the close relatives of the husband of respondent No. 2. Applicant Nos. 1 and 3 are the sisters-in-law of respondent No. 2. Applicant Nos. 2 and 4 are the husbands of applicant Nos. 1 and 3, respectively. Being aggrieved by the present FIR, the applicants have approached to this Hon'ble Court by way of present criminal application for the quashing of the FIR and further Criminal proceedings.

3.2. The applicants have stated in the Criminal Application that it was second marriage for both the husband and wife (Informant). The marriage was solemnized in the year 2009, and after 10 years FIR was lodged on alleged factual incorrect grounds. The applicants are far off relatives of Informant, who have nothing to do with day to day affairs of the matrimonial life of the Informant and her husband. The applicants are married and staying in their own house. Therefore, FIR filed on baseless facts should be quashed and set aside.

B. SUBMISSION OF PARTIES :

4. Heard learned Advocate Mr. V.B. Anjanwatikar for

the applicants, Mr. A.M. Phule, learned APP for the State and learned Advocate Mr. Sahil Choudhari holding for Deepak Choudhari for the respondent No. 2.

5. Learned Advocate Mr. Anjanwatikar submits that the marriage of Informant as well as Jitendra Rohile is a second marriage. Both of them had taken divorce from the earlier husband and wife. He submitted that after marriage the present applicants are residing in the house of in-laws at different places not with the Informant and her husband. The respondent No.2 filed a false FIR against them only with a view to harass them.

6. He further submits that the perusal of the FIR would show that the general and baseless allegations have been levelled against the applicants. On the basis of the allegations made in the Report, no cognizable offence can be said to have been made out.

7. The Applicants are innocent and have not involved in the present crime as is alleged by the complainant in the FIR. No offences as mentioned in the Complaint is made out against the applicants, the allegations are afterthoughts, concocted facts for keeping the law in motion and the same are liable to be quashed under Section 482 of the Code of Criminal Procedure by this Hon'ble Court.

8. Learned APP – Mr. A.M. Phule and learned Advocate Mr.

Choudhari for respondent No. 2 submitted that there was a demand of monies as well as all the accused persons have tortured the respondent No. 2 physically and mentally. Specific allegations have been made against all accused persons in the Criminal Application, hence there is no question of quashing the FIR and the proceedings arising therefrom.

C. ANALYSIS :

9. For quashing the criminal proceedings under Section 482 of the Cr.P.C. we have to see, whether the allegations in the FIR, *prima facie*, establish the ingredients of the offence alleged.

10. Prosecution at the initial stage is asked to be quashed, the test to be applied by the Court is as to whether the uncontroverted allegation as made in the complaint, *prima facie*, establish the case. The Courts have to see whether continuation of the complaint amount to abuse of process of law and whether continuation of the criminal proceedings results in miscarriage of justice or when the Court comes to a conclusion that quashing these proceedings would otherwise serve the ends of justice, then the Court can exercise the power under Section 482 of Cr.p.c. While exercising the power under the Provision, the Courts have to only look at the uncontroverted allegation in the complaint whether, *prima facie*, discloses an offence or not, but it should not convert itself to that of a trial Court and dwell into the disputed

questions of fact.

11. Perusal of the FIR would show that Informant has reported that there was ill-treatment meted out to her by her husband and in-laws. Husband was having illicit relations with one Kanchan Vijay Chakrawarti and asking the informant to prepare meal for Kanchan also and even, the applicants supported the husband of Informant. The FIR further states that not only the applicants provoked the husband for beating the informant but they beat the informant by means of slaps and fists and abused her. They used to say that the informant should search for job of Rs. 25,000/- to Rs. 30,000/-. The Informant has specifically stated that the applicants used to torture her on one or the other household counts and used to say that she should bring Rs. 50,000/- for her livelihood. They snatched her ornaments and drove her out of the matrimonial house. There are specific allegations made in the FIR against all the applicants.

12. Therefore, taking into consideration the contents of FIR, in our view, this is not a fit case, wherein, we should exercise our discretionary powers under Section 482 of the Code of Criminal Procedure, to quash the FIR as against applicants. Trial is required to investigate the crime. Hence, we pass the following order :

ORDER

- i. Criminal Application stands rejected.

ii. The observations made herein above are, *prima facie*, in nature and it would have no bearing on the final adjudication of the proceedings.

(RAJESH S. PATIL, J.)

(SMT. VIBHA KANKANWADI, J.)