

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1063 OF 2022

1. Shakil Khan Sikandar Khan Multani
2. Shahanazbi Sikkandar Khan Multani
3. Shahista Shehbaj Khan
4. Shabnambi Jakir Khan
5. Shagirkhan Sikandar Khan
6. Jakirkhan Sikandar Khan

.. Applicants

Versus

1. The State of Maharashtra
Through Police Inspector,
Jalgaon Police Station, Dist. Jalgaon
2. Rukhsarbi Shakilkhan Multani

.. Respondents

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Mr. Mangesh G. Patil, Advocate for applicants.
Mr. S. D. Ghayal, APP for respondent No.1 - State.
Mr. Girish Nagori, Advocate for respondent No.2.

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

DATE : 21-11-2022

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 First Information Report (for short "FIR") bearing Crime No.38 of 2022 registered with Jalgaon Police Station, Dist. Jalgaon 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 Charge-sheet i.e. R.C.C. No.537 of 2022 pending before the learned Judicial Magistrate First Class, Jalgaon.

2. Applicant No.1 is the husband of respondent No.2. Applicant Nos.2 is the mother-in-law of respondent No.2, applicant Nos.3 and 4 are the sisters-in-law of respondent No.2 and applicant Nos.5 and 6 are the husbands of sisters-in-law of respondent No.2. It will not be out of place to mention here that by order dated 01.04.2022, the application in respect of applicant Nos.1 and 5 came to be dismissed and, therefore, the matter has proceeded for the reliefs claimed by applicant Nos.2 to 4 and 6.

3. The informant - respondent No.2 lodged report with Jalgaon Police Station, Dist. Jalgaon on 22.02.2022 against the present applicants. It is stated that the marriage of the informant was performed with applicant No.1 on 28.02.2010 at Gendalal Mill, School No.15 at Jalgaon as per Muslim Rituals and Customs. Informant states that she was treated properly for about two years by the applicants. Thereafter, the applicants started demanding amount of Rs.5,00,000/- for the purpose of business. When she told that she doesn't have father and the economical condition of her family is very poor and therefore, she cannot give such huge amount, then applicant No.1 - husband had harassed her physically

as well as mentally. It is further stated that applicant No.1 used to take doubt on her character and he used to say that the son was not begotten from him as well as the sister-in-law used to abuse her. Thereafter, applicant No.5 gave life threat to her and deserted her to parental house at Jalgaon since 2016. Thereafter, various attempts were made by the parents of the informant to convince the applicants to resolve the dispute, the same was not fruitful. Therefore, the informant lodged report against the present applicants with Jalgaon Police Station.

4. Heard learned Advocate Mr. Mangesh G. Patil for the applicant, learned APP Mr. S. D. Ghayal for respondent No.1 - State and learned Advocate Mr. Girish Nagori for respondent No.2.

5. It is to be noted from the contents of the FIR as well as the charge-sheet that as against the present applicants are concerned, it is stated that they had given proper treatment to respondent No.2 for about two years after her marriage on 28.02.2010. According to respondent No.2, thereafter, all the accused persons started demanding amount of Rs.5,00,000/- for the purpose of business. When she placed her inability, her husband used to assault her, raise suspicion over her character and used to say that the son is not begotten from him. It appears that all these allegations appear to be against the husband only. Further, she has

stated that she was left to her parental house in the year 2016. The FIR has been lodged on 22.02.2022. It cannot be strictly considered as belated, but certainly it is after a long gap when she was allegedly left at her parental house. As regards applicant Nos.2 to 4 and 6 are concerned, only omnibus allegations have been made.

6. 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."

7. Taking into consideration the above noted decisions, we are of the opinion that the ingredients of offence punishable under Section 498-A of Indian Penal Code are not attracted as against the applicant Nos.2 to 4 and 6. 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.2 to 4 and 6. Hence, the following order :-

ORDER

I) The application stands allowed in respect of applicant Nos.2 to 4 and 6.

II) The FIR bearing Crime No.38 of 2022 dated 22.02.2022 registered with Jalgaon Police Station, Dist. Jalgaon for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of IPC as well as the Charge-sheet i.e. R.C.C. No.537 of 2022 pending before the learned

Judicial Magistrate First Class, Jalgaon, stand quashed and set aside, as against applicant Nos.2 to 4 and 6.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm