

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

CRIMINAL APPLICATION NO. 1102 OF 2022

1. Umesh Pramod Kachare
(Husband of respondent No.2)
Age : 30 Years, Occ. : Private Service,
2. Pramod Ramdas Kachare
(Father in law of respondent No.2)
Age : 67 Years, Occ. : Retired.
3. Sau. Asha Pramod Kachare
(Mother in law of respondent No.2)
Age : 60 Years, Occ. : Household,
Petitioner No.1 to 3,
R/o. Plot No. 34, Gut no. 448/2,
Near Ganadhish Residence,
Mohan Nagar, Tq. & Dist. Jalgaon.
4. Sau. Chitra Gopal Dhangar
(Sister in law of respondent No.2)
Age : 28 Years, Occ. : Private Service,
R/o. Plot No. 102, Lotus Plaza,
Saideep Residency, Morida,
Madgaon, (Goa State)

... Applicants

(Orig. Accused Nos.1 to 4)

Versus

1. The State of Maharashtra,
Through Ramanand Police Station Jalgaon,
Dist. Jalgaon
2. Ankita Umesh Kachare
Age : 25 Years, Occ. : Household,
Present R/o. C/o. Sunil Zulelal Pawar,
330, Shivaji Nagar, Jalgaon, Dist. Jalgaon.

... Respondents

(Respondent No.2
Orig. Complainant)

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Smt. Sabahat T. Kazi, Advocate for Applicants.
Mr. S. D. Ghayal, APP for Respondent No.1-State.
Mr. Sandesh R. Patil, Advocate for Respondent No.2.

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

DATE : 08th DECEMBER 2022

JUDGEMENT (ABHAY S. WAGHWASE, J.) :

The FIR at the instance of respondent No.2 registered at Ramanand Nagar Police Station, Jalgaon for the offences punishable under sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code and the charge-sheet arising out of such crime culminated into R.C.C. No.1010 of 2021 are sought to be quashed by praying to invoke the inherent powers under section 482 of Cr.PC.

2. When this Court expressed its disinclination to consider and grant relief with respect to applicant nos.1 to 3, on instructions, learned counsel informed that she is withdrawing the instant proceeding as regards to them. Therefore, application is dismissed as withdrawn against applicant Nos.1 to 3.

3. In FIR dated 28.08.2021, respondent no.2 informed police that she was married to applicant No.1 – Umesh on 21.11.2017. She went to reside with her husband and in-laws. She was treated properly for a month or so. Because of job of her husband at Aurangabad, she came to reside with him.

She has alleged that at Aurangabad there were never any physical relations between them. She questioned her husband, but he mislead her. That her husband was treated for impotency. However, he blamed her for not delivering child and ill treated her. When she informed about impotency of her husband to her in-laws, they too shifted of blame on her and held her responsible for not delivering child and according to her she was subjected to ill treatment. She has alleged that her sister-in-law also advised to her to bear the ill treatment if at all she is interested in continuing her married life. She has alleged that her husband asked her to raise Rs.1,00,000/- for arranging job for himself. On 16.04.2021, her mother-in-law drove her out of the house and hence, she approached police with above complaint. With such allegations, FIR came to be registered with Ramanand Police Station, District Jalgaon, bearing Crime No.0249 of 2021.

Ramanand Police Station carried out investigation and after completing the same charge-sheet came to be filed. Both FIR as well as said charge-sheet is now sought to be quashed and set aside praying to exercise powers under section 482 of Cr.PC.

4. As inherent powers of this Court under section 482 of Cr.PC. are invoked, law on this point is required to be briefly discussed as to when such powers can be exercised.

As to when powers under Section 482 of Cr.PC. can be exercised is fairly settled by slew of judgments including ***Inder Mohan Goswami and Anr. Vs. State of Uttaranchal and Ors.***; (2007) 12 SCC 1 and ***Mahendra K.C. Vs. State of Karnataka and Another***, (2022) 2 Supreme Court Cases 129.

5. Learned counsel for applicants took us through the FIR and submitted that complaint is false and afterthought. According to her, all allegations are levelled with oblique motive and to harass the entire family. It is pointed out that husband was not impotent and there is medical record to that extent. According to her, respondent No.2 herself was not interested in the marriage and she left the house in the company of college-mate. There was no demand of money for arranging job. According to her, there is no material in the entire charge-sheet so as to make the applicants face trial. All statements are of close relatives, who are interested witnesses. Their statements are also mirror, images with each other, and therefore, she prays to grant the relief as prayed.

6. While opposing the application, learned APP brought to our notice that merely after few months of marriage, there was ill treatment to respondent No.2. There are allegations that husband was impotent. When complainant suggested for treatment, husband allegedly got annoyed and started ill treating respondent No.2. His parents and sister also joined in shifting the blame on her and started ill treating her. There was demand of

money and finally respondent No.2 was driven out of house. Therefore, complaint was lodged. Investigation was carried out and police machinery has gathered sufficient material regarding involvement of applicant and he prays to dismiss the application.

7. Learned counsel for respondent No.2 also submits that there is sufficient material about ill treatment and beating to respondent no.2. There was demand of money and husband, in-laws and sister-in-law have all indulged in maltreating respondent No.2. They had made her life miserable and she was driven out of the house. She was constrained to file FIR. There are statements of various witnesses in the charge-sheet regarding involvement of all applicants and so he too prays to dismiss the application.

8. We have heard respective sides at length. We have examined the FIR and the charge-sheet. It is emerging that in the FIR initially allegations are regarding husband to be not getting intimate with her or cohabiting with her. According to her, he also avoided to take treatment for impotency even when fault was found on his part on medical examination. In such background, she has alleged that husband beat her. According to her, when she complained to parents-in-law, they have also joined the husband and denying the allegations and started ill treating her. She has also alleged that sister-in-law used to have blunt talks with her, but on phone. Lastly, it is alleged that husband raised the demand of Rs.1,00,000/- for arranging job for him and he

beat her and finally on 16.04.2021, she was driven out of the house.

9. We have gone through the statements of witnesses recorded by the Investigating Officer. Obviously, considering the nature of crime, relatives, neighbours and relatives of respondent No.2 would be the best witnesses. They all are speaking on the same lines as like respondent No.2 regarding role of husband and in-laws. However, we do not find any specific role being attributed to present applicant no.4 except that of one incident that she telephoned and spoke very bluntly to respondent no.2. Therefore, in our opinion, involvement of applicant No.4 seems to be unwarranted. She also seems to be resident of another state. Resultantly, instant FIR and consequential proceedings amounts to abuse of process of law.

10. Hence, we accordingly proceed to grant relief only to applicant No.4. Resultantly following order :

ORDER

- i) The application is allowed partly.
- ii) Application of applicant No.1 to 3 is dismissed as withdrawn.
- iii) Application of applicant No. 4 is allowed in terms of prayer clauses (B).

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)