

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

CRIMINAL APPLICATION NO. 1189 OF 2022

1. Pratiksha W/o Ganesh Sahane, **(Sister-in-law)**
Age-26 years, Occupation-Household,

At Present R/o. C/o. Kisanrao K. Sahane,
Plot No. 67, Aaditynagar, Opp. Chhatrapati Hall,
Pisa Devi Road, Harsool, Aurangabad.
Permanent Address :- At. Sirasgaon Post. Hasnabad
Tq. Bhokardan, Dist. Jalna.
 2. Ganesh S/o Gamajee Sahane, **(Husband of Sister-in-law)**
Age-32 years, Occupation-Service,
At Present R/o. C/o. Kisanrao K. Sahane,
Plot No. 67, Aaditynagar, Opp. Chhatrapati Hall,
Pisa Devi Road, Harsool, Aurangabad.
Permanent Address :- At. Sirasgaon Post. Hasnabad
Tq. Bhokardan, Dist. Jalna.
 3. Laxmibai Gamajee Sahane, **(Mother-in-law of Sister-in-law)**
Age-47 years, Occupation-Household,
R/o. Sirasgaon Post. Hasnabad,
Tq. Bhokardan, Dist. Jalna.
- ... Applicants
(Orig. Accused Nos. 5 to 7)

Versus

1. The State of Maharashtra
Through Investigation Officer,
Police Station Paradh, Tq. Bhokardan,
Dist. Jalna.
 2. Pooja W/o Dipak Mutkule,
Age-23 years, Occupation-Household,
R/o. Shelud, Tq. Bhokardan, Dist. Jalna.
- ... Respondents.
(R.No.2 is Orig. Complainant)

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Mr. Ravindra V. Gore, Advocate for the applicants.
Mr. S. D. Ghayal, APP for Respondent No.1-State.
Mr. Sandeep N. Lute, Advocate for Respondent No.2.
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**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : 19.12.2022

JUDGMENT (ABHAY S. WAGHWASE, J.) :

1. Sister-in-law, her husband and mother-in-law, who are impleaded as accused in crime bearing No.55 of 2022 registered with Paradh Police Station, District Jalna for the offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code (for short, "IPC"), are seeking relief of quashment of the FIR and consequential proceedings.

2. Brief facts giving rise to the present application are as under:

Respondent no.2- wife of non-applicant husband set law in motion giving date of her marriage as 19.04.2017. According to her, she was treated properly for four to five months after marriage. She has alleged that since September 2017, her in-laws taunted her on one or other count, subjected her to mental cruelty and beat her by kicks and fist blows. That, she wanted to take admission for D.Pharmacy, but her husband, father-in-law and sister-in-law opposed it. She has alleged that when her father forced, she was allowed to take admission. For only the first year, her father-in-law bore expenses of

her education, however, thereafter, her father expended for her education. She has alleged that since 2017, all her in-laws beat her many times, issued life threats and taunted her. According to her, on 26.05.2019, her husband, parents-in-law, two sisters-in-law, mother-in-law of sister-in-law and others asked her to bring Rs.10,00,000/- for setting up a two-wheeler showroom and on refusal to arrange the said amount, her husband, parents-in-law and another sister-in-law abused, beat and threatened her and driven her out of the house. In June 2021, she was again beaten on the count of money as well as for not delivering male child. With such allegations, she has named almost eight persons for maltreating her.

The police entertained the above complaint and registered above crime and investigation was undertaken, after completion of which, charge-sheet was filed.

Submissions

3. Learned counsel for the applicants prays for invoking provisions under Section 482 of the Code of Criminal Procedure (for short, "Cr.P.C.") by pointing out to the FIR and further submitting that allegations are false, afterthought, non-specific and general in nature. According to him, merely years of alleged treatment are reflected, but specific instances are not informed in the FIR. According to him, moreover, the present applicants are married sister-in-law, her husband and her mother-in-law and they are residing separately and have

no role in the alleged affairs of the family of accused husband. He pointed out that present applicants are not only residing separately, but applicant no.2 is in Government service and moreover, till 2018 applicant nos. 1 and 2 were residing in Mumbai and therefore, there is no question of participating in any sort of ill-treatment alleged in the FIR. According to him, instant prosecution is launched maliciously with ulterior motive and to settle personal grudge with accused husband. That, it is a clear attempt to rope in entire family and hence he prays exercise of inherent powers under Section 482 of Cr.PC.

4. Learned APP opposed the said application and the relief by submitting that applicants are specifically named in the FIR. There are allegations of not only taunting, but even beating her with kicks and fist blows on various occasions since shortly after marriage. Finally, he submits that there is maltreatment on the count of demand of money. Investigation also reveals role of present applicants and so he prays to dismiss the application.

5. Learned counsel for respondent no.2 also opposed by pointing out that applicants are named. Their role is also defined in the FIR. They have participated in ill-treating informant along with other main accused. Therefore, they too deserve to face legal action.

6. Here, applicants are seeking exercise of inherent powers of this Court under Section 482 of Cr.PC. 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, State of Haryana and others v. Ch. Bhajan Lal and others ; AIR 1992 SC 604 .

7. In the light of the legal requirements, as culled out by the Hon'ble Apex Court in the above rulings, if we examine the FIR, it is clear that informant has named husband, parents-in-law, two sisters-in-law, mother-in-law of sister-in-law, husband of sister-in-law, cousin father-in-law and cousin brother-in-law. Nature of allegations is that initially after marriage, there was taunting and thereby being subjected to mental cruelty. What was the nature of taunting and in what background it was done is not clarified by the informant. Secondly, allegations about beating pertain to year 2017 and 2019 but specific instances are not quoted. Finally, there seem to be allegations of demand of Rs.10,00,000/- for setting up motorcycle showroom. Then she alleges that on refusal to meet such demand, she was beaten, abused and threatened with life. In the year 2021, for the first time she claims that her husband and in-laws were dissatisfied for delivering girl child. Even otherwise, present applicants, Who are accused nos. 5 to 7, are married sister-in-law (applicant no.1) and her husband (applicant no.2), whereas applicant no.3 is mother-in-law of applicant no.1. Informant seems to be residing with her parents. In the application, which is on affidavit, it is stated that present applicant nos. 1 and

2 were residing at Mumbai and they have recently shifted to Aurangabad. Therefore, allegations about concurrence in 2017 would not be made applicable to them unless it is specifically stated as when they came. Taking into consideration the allegations against the present applicants, they are sweeping and omnibus in nature. Applicant nos. 2 and 3 are definitely not family members of husband. However, they too seem to be named. We have also gone through various statements recorded by the Investigating Officer under Section 161 of Cr.P.C. These statements are of close relatives. They are all monotonous in nature. No specific role is attributed to the present applicants. Therefore, taking into consideration the nature of allegations, *prima facie*, we are convinced that prosecution launched against present applicants is misdirected. Making them face prosecution with allegations of such nature would definitely render injustice to them. For ends of justice to meet, we deem it a fit case where we can exercise inherent power under Section 482 of Cr.P.C. Hence, we proceed to pass the following order:

ORDER

- I. The application is allowed in terms of prayer clauses [B] and [G].
- II. The application is accordingly disposed off.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)