

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1317 OF 2022

Jayashri Vishwasrao Deore,
@ Jayashri Prashant Bhosale
Age : 38 Years, Occ. : Service,
R/o : Plot No. 61/62/63/1,
Gat No.148, Flat No. B-5,
Vastalya Vihar Appt.,
Ramanand Naar Bus Stop,
Yashwant Nagar, Jalgaon,
Dist. Jalgaon

(Sister-in-law)

... Applicant

Versus

1. The State of Maharashtra,
2. Nutan Bhushan Deore
@ Nutan Ramesh Patil,
Age : 33 Years, Occ.: Service,
R/o. C/o. Ramesh Macchindra Patil,
At Post Gondur, Taluka Dhule,
Dist. Dhule.

... Respondents

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Mr. Amil S. Savale, Advocate for Applicant.

Mr. M. M. Nerlikar, APP for Respondent No.1-State.

Ms. Pratiksha C. Kale, Advocate for Respondent No.2 (Appointed)

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

DATE : 12th DECEMBER 2022.

JUDGEMENT (ABHAY S. WAGHWASE, J.) :

1. Sister-in-law of respondent No.2, by invoking section 482 of Cr.P.C., has prayed for quashing of FIR bearing No.69 of 2022 registered at

Deopur Police Station, Dhule, Dist. Dhule, for the offences punishable under sections 498-A, 323, 504, 506 and section 34 of Indian Penal Code.

Factual matrix

2. Respondent No.2 set in law in motion informing that she was married to Bhushan Vishwasrao Deore on 03.05.2012. According to informant, her husband was in service as a lecturer. After being treated properly for a period of 3 to 4 months, she has alleged that mother-in-law, father-in-law and sister-in-law continuously taunted her saying that she cannot do any work and that she is bad luck for them. She has alleged that they used to say to her that her father had not given proper honour to them in marriage and also used to instigate her husband to beat her. She has alleged that she and her husband moved to Chandroday Kalani Gondur Road, Deopur, Dhule in a rented premises. There also, her in-laws and sister-in-law used to instigate her husband by talking on phone and resultantly, he abused and beat her. She has alleged that her husband stripped her of her '*stree dhan*' and driven her out of house. With such allegations she lodged the FIR on the strength which, police registered crime for above offences.

3. Learned counsel for applicant would point out that present applicant, who is sister-in-law of the informant, is resident of Yashwant Nagar, Jalgaon, whereas informant stayed with her husband at Chandroday Kalani Gondur Road, Deopur, Dhule and both places are distinct. Taking us through

the FIR, it is submitted that role of applicant is not described or defined but still she is named along with the husband and in-laws and they are not party to the application. According to learned counsel, present FIR is merely abuse of process of law and with sole intention of harassing entire family out of revengeful attitude and hence, above relief is sought.

4. On behalf of the State, learned APP strongly opposes the application and submits that applicant has also participated in taunting and instigating husband, who in turn subjected informant to ill-treatment. Therefore, she deserves to face trial.

5. In answer to above, learned counsel for respondent No.2 also pointed out that applicant herein, who is sister-in-law, was initially staying with her brother and parents. That, there are allegations about ill-treatment after 3 to 4 months of marriage. Therefore, she being named in the FIR, she prayed to dismiss the application.

6. As inherent powers of this Court under section 482 of Cr.P.C. are invoked, it would be appropriate to first highlight the legal position as to when such powers under Section 482 of Cr.P.C. can be exercised. The law on this point 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.***

7. In light of the legal requirement as laid down in the above rulings, if we examine the FIR, it is apparent that after marriage, informant has levelled allegations about taunting like, unable to do work, she being bad luck for them, about not giving proper honour in marriage by her father and also about instigating husband. Therefore, apparently, allegations are vague, non-specific and minor in nature. FIR clearly shows that informant and her husband resided separately at Chandroday Kalani Gondur Road, Deopur, Dhule in a rented premises, whereas, present applicant is shown to be resident of Vastalya Vihar Apartment, Yashwant Nagar, Jalgaon, as is evident from the copy of Aadhar card. Even otherwise, FIR clearly discloses that at such time, after residing separately, allegations are about instigating the husband on phone. Taking such material into consideration, it is obvious that instant FIR is clearly an attempt to abuse the process of law. It would be hazardous to make applicant face trial with such allegations on record. Finding it a fit case for exercise of powers under sections 482 of Cr.P.C., we proceed to pass following order :

ORDER

- i) The application is allowed in terms of prayer clause (B).
- ii) The application is accordingly disposed of.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)