

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

CRIMINAL APPLICATION NO.1423 OF 2022

1. Abdul Hakk Mohammad Shaukat Qureshi,
[Father in law of Informant]
Age: 77 years, Occu: Nil,
R/o. Ward No.11, Imamwada,
Mehkar, Tq. Mehkar,
Dist. Buldhana.
2. Habibabee w/o Abdul Hakk Qureshi,
[Mother in law of informant]
Age: 71 years, Occu: Household,
R/o. Ward No.11, Imamwada,
Mehkar, Tq. Mehkar,
Dist. Buldhana.
3. Saddam Hussain s/o Abdul Hakk Qureshi,
[Brother in law of informant]
Age: 32 years, Occu: Business,
R/o. Ward No.11, Imamwada,
Mehkar, Tq. Mehkar,
Dist. Buldhana.
4. Rizwana Bano w/o Taj Mohd. Qureshi,
[Sister in law of informant]
Age: 42 years, Occu: Household,
R/o. Ward No.11, Mali Peth,
Mehkar, Tq. Mehkar,
Dist. Buldhana.
5. Asma Parveen w/o Mohd. Khalif,
[Co-wife-second wife of
husband of Informant]
R/o. Ward No.11, Imamwada,
Mehkar, Tq. Mehkar,
Dist. Buldhana.
6. Tasleem Maulana Qureshi,
[Distant Relative of Informant
father of applicant No.5]
Age: 55 years, Occu: Teacher,
R/o. Gauspura, Loni Phata, Risod,
Tq. Risod, Dist. Washim.

... **APPLICANTS**
(Accused Nos.2 to 7)

VERSUS

1. The State of Maharashtra
through Police Station,
Jintur, Dist. Parbhani.

2. Sumayya Tabsoom d/o Sharif Qureshi,
@ Summayya Tabsoom w/o Mohd. Khalif,
Age: 29 years, Occu: Household,
R/o Qureshi Mohalla, Jintur,
Tq. Jintur, Dist. Parbhani.

... **RESPONDENTS**
(Resp. No.2 Org. Informant)

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Advocate for Applicants : Mr. Sudarshan J. Salunke
APP for Respondent No.1 State : Mr. S.P. Tiwari
Advocate for Respondent No.2 : Mr. Sahil Deepak Choudhari

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**CORAM : MANGESH S. PATIL AND
ABHAY S. WAGHWASE, JJ.**

DATE : 13.10.2022

ORDER (ABHAY S. WAGHWASE, J.) :

1. Heard both the sides.
2. Respondent No.2 invoked provisions under section 156(3) of the Code of Criminal Procedure praying for registration of crime against her husband and in-laws, for commission of offences under sections 498-A, 323, 504 read with Section 34 of Indian Penal Code and Section 7 of the Muslim Women (Protection of Rights on Marriage) Act, 2019 (hereinafter referred to as '*said Act*'). The learned Magistrate, Jintur by order dated 02.12.2021 forwarded a copy of complaint to the police station, Jintur for registration of crime. In consequence to that Jintur Police Station registered crime bearing No. 439 of 2021 for offences punishable under sections 498-A, 323, 504 and 506 read with section 34 of Indian Penal Code and under section 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019.

3. We have perused the FIR, charge sheet and heard learned counsel for applicants. On doing so, when this Court expressed its disinclination to consider the reliefs in the light of nature of allegations levelled against applicant Nos.1 and 2, learned advocate for the applicants, on instructions, seeks leave of this Court to withdraw applications as regards to such applicant Nos.1 and 2, i.e. father-in-law and mother-in-law.

4. Record shows that, this Court vide order dated 25.04.2022, to which we concur, has held that, in view of ruling of Hon'ble Apex Court in the case of ***Rahna Jalal Vs. State of Kerala and Anr.***, reported in ***[2020] (2) Mh.L.J.(Cri.) SC 67***, section 3 and 4 of said Act operates only in relation to muslim husband alone. Therefore, in our opinion said provisions would not be attracted or applied as against present applicants i.e. applicant Nos.1 to 6. It is pertinent to note that, even otherwise husband is not a party to the instant application.

5. On the point of whether part charge-sheet could be quashed, learned counsel for applicant has invited our attention to the case of ***Hitesh Verma Vs. State of Uttarakhand***, reported in ***2021 Cri. L.J. 1***. We have gone through the said ruling also, more particularly para 23 and 24. Therein Hon'ble Apex Court has observed that, there is no prohibition under law for quashing charge-sheet in part or against those sections which are not applicable. Therefore, we are convinced that part proceedings can be quashed as there is no prohibition under law to do so.

The applicant No.1 is the father-in-law of informant, applicant No.2 is mother-in-law of informant, applicant No.3 is brother-in-law of informant, applicant No.4 is sister-in-law of informant, applicant No.5 is second wife of husband of informant and applicant No.6 is father of applicant No.5.

6. If we visit the complaint in the case in hand, it is seen that respondent No.2 has alleged that she got married to non-applicant husband on 11.02.2015. After marriage her husband taunted saying that, she was not good looking, she was not suitable for him and her behaviour was also not good. He expressed his intentions of performing second marriage and thereby she was mentally and physically subjected to cruelty. She has also alleged that, husband threatened to perform second marriage and demanded money for conducting business. According to her he has performed second marriage with respondent No.5 and as such she suffered mental shock. Hence, she approached court of law by lodging complaint for registration of crime against husband and in-laws. There are allegations that applicant Nos.1 and 2, who are parents-in-law, also beaten her and kept her starving.

7. We have minutely gone through the FIR/complaint. We can see that allegations of 498-A, 323, 504, 506 of Indian Penal Code are vague, omnibus and non specific. Details and particulars of the instances of ill-treatment meted out to a respondent No.2, more particularly, by present applicant Nos.3 to 6 are conspicuously missing. Specific roles are not

attributed. However, serious allegations are levelled only against husband and parents-in-law.

Therefore, in the light of omnibus allegations in the complaint against applicant Nos.3 to 6, it would not be just and proper to make them face trial. In our view making them face trial with such allegations, would be sheer abuse of process of law. In our view the guidelines laid down in the case of *State of Haryana Vs. Bhajan Lal* reported in *AIR 1992 SC 604*, initiation of criminal proceedings with such nature of allegations would tantamount to abuse of process of law against applicant Nos.3 to 6.

Consequently, relief as prayed as against such applicant Nos.3 to 6 deserves to be granted. Hence the following order:

ORDER

- (i) Criminal Application is partly allowed.
- (ii) Criminal application as regards to applicant Nos.1 and 2 is dismissed as withdrawn.
- (iii) Crime bearing No. 439 of 2021, dated 27.12.2021 registered at Jintur Police Station, District Parbhani and case bearing R.C.C. No. 191 of 2022 pending on the file of learned Judicial Magistrate First Class, Jintur, District Parbhani are hereby quashed and set aside as only against applicant Nos.3 to 6.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)