

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

CRIMINAL APPLICATION NO.999 OF 2021

ASHWINI VIKRAM CHITGOPKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Bhavthankar V Vasantryao
APP for Respondents: Mr. S D Ghayal
Advocate for Respondent 2 : Mr. Kulkarni Girish N.
(Mardikar)

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CORAM:SARANG V. KOTWAL & BHARAT P.DESHPANDE, JJ.
Dated: June 21, 2022

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PER COURT :-

1. This is an application for quashing of the charge-sheet dated 28.1.2021 resulting in RCC No.31 of 2021 in the Court of Judicial Magistrate First Class, Omerga, District Osmanabad for the offence punishable under sections 498-A, 323, 504, 506, 34 of the Indian Penal Code. The application is preferred by four applicants. Application for applicant no.1-Ashwini Vikram Chitgopkar was withdrawn which is recorded in the order dated 15.2.2022. Therefore, we are considering this application for the remaining applicants i.e. applicant nos.2, 3 and 4.

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2. The applicant no.1 was the sister-in-law of the informant, applicant no.2 is the husband of applicant no.1, applicant no.3 is another sister-in-law and applicant no.4 is husband of applicant no.3. Applicant no.2 is residing at Pune. Applicant nos.3 and 4 are residents of Thane. The informant is residing at Omerga, District Osmanabad.

3. The informant-respondent no.2 has lodged her FIR on 24.11.2020. She has stated that, she got married with her husband Gitesh on 7.6.2015. After marriage she stayed in her matrimonial house at Omerga for one month. After that, she went to reside with her husband to Pune. It is alleged that, the applicant no.1 Ashwini was residing in the same colony. She alongwith applicant no.2 used to visit the informant's matrimonial house. There are allegations that they used to insult the informant and used to tell her to bring articles like T.V., Refrigerator from her parents. The Mother-in-law of the informant used to tell her telephonically that she should act according to the demands made by the

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applicant no.1 Ashwini. The FIR goes on to mention that, the husband used to assault her after consuming liquor. There are allegations that the applicant nos.2 and 4 used to visit her house and used to insult her. In April, 2020, the informant and her husband had gone to Omerga. At that time, the applicant nos.1 and 3 were also at Omerga. It is her allegations that both of them used to tell her to go back to her parental house. It is alleged that they used to threaten her, they used to abuse her; on one occasion Ashwini had slapped her. On this basis, the FIR is lodged. Investigation was carried out and the charge-sheet was filed.

4. Learned counsel for the applicants submitted that, there are no specific allegations against the applicant nos.2,3 and 4. The allegations are general and vague. All of them are residing at distant places. In fact, applicant nos.3 and 4 were residing at Thane. As far as applicant no.3 is concerned, no specific allegations are made against applicant no.3.

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5. Learned counsel for respondent no.2 as well as learned APP opposed this application. They submitted that, there are allegations that, at Omerga applicant no.3 had also caused harassment. There are references in the FIR that the other applicants used to harass her at Pune.

6. We have considered their submissions and with the assistance of all learned counsel we have perused the charge-sheet. The charge-sheet contains statement of various witnesses. One Giriraj Kulkarni was resident of Omerga, Sanjay Kalmankar and Ashwini Kalmankar were parents of the first informant. These are the only statements of the witnesses. They have made same allegations as made in the FIR. Therefore, version of the first informant is important in this case. As rightly submitted by learned counsel for the applicants, there are vague and general allegations against applicant nos.2, 3 and 4. They were residing separately from the informant and her husband. In fact, applicant nos.3 and 4 were residing at Thane. On one occasion when

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the informant had gone to Omerga, there are vague allegations against applicant no.3 that she alongwith others had caused harassment to first informant. However, specific details and instances are not mentioned in the FIR. The allegations in the FIR as far as these three remaining applicants are considered; they fall much short of ingredients of section 498-A of IPC. It is clearly seen that these three applicants are roped in to pressurize the husband. In this view of the matter, continuation of this proceeding against them would amount to abuse of process of law. Therefore, the proceedings are liable to be quashed. Hence, the following order.

ORDER

- i. Application is hereby partly allowed.
- ii. The proceedings vide RCC No.31 of 2021 pending in the Court of Judicial Magistrate First Class, Omerga, District Osmanabad are quashed and set aside in respect of the applicant nos.2,3 and 4.

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iii. Application is disposed off.

(BHARAT P. DESHPANDE, J.) (SARANG V. KOTWAL, J.)

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