

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

CRIMINAL APPLICATION NO. 1537 OF 2022

1. Manju w/o Ramesh Bansal,
Age : 65 years, Occu. : Business
R/o. Behind Apex Hospital,
Saiprasad Prem Residency,
Aurangabad.
2. Ramesh s/o Munshiram Bansal,
Age : 73 years, Occu. : Retired,
R/o. Behind Apex Hospital,
Saiprasad Prem Residency,
Aurangabad.
3. Deepak s/o Ramesh Bansal,
Age : 44 years, Occu. : Service,
R/o. Behind Apex Hospital,
Saiprasad Prem Residency,
Aurangabad.
4. Karishma w/o Deepak Bansal,
Age : 44 years, Occu. : Business,
R/o. Behind Apex Hospital,
Saiprasad Prem Residency,
Aurangabad.

...Applicants

Versus

1. The State of Maharashtra
2. Kranti @ Komal w/o Vikram Bansal,
Age : 38 years, Occu. : Household &
Legal Practitioner, resident of
R/o. Sai Nivas, Basasya Nagar,
Near Apex Hospital, at present
r/o Vakilwadi, Kaij, Tq. Kaij,
District Beed.

...Respondents

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Mr. N. S. Ghanekar, Advocate for the applicants
Mr. R. V. Dasalkar, APP for respondent/State

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**CORAM : SMT. VIBHA KANKANWADI
AND
RAJESH S. PATIL, JJ.**

DATE : AUGUST 24, 2022

ORAL JUDGMENT [PER RAJESH S. PATIL, J.] : -

1] The applicants who are the relatives of husband of respondent no.2, by this application, invoke the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973 for seeking quashment and setting aside of the proceedings in R.C.C. No. 02 of 2020 pending before learned Judicial Magistrate First Class, Kaij [hereinafter referred to as JMFC, Kaij] for offences punishable under Section 498A, 323, 504, 506 r/w 34 of the Indian Penal Code arising out of Crime No. 0433 of 2019 registered with Kaij Police Station, Dist. Beed.

A] FACTS : -

2.1] It is the case of the respondent no. 2 in the First Information Report that she got married with Vikram Ramesh Bansal, the son of applicant nos. 1 and 2, on 19.01.2017, at Aurangabad. They have no issue from the said wedlock. After

marriage, the applicants and husband of respondent no. 2 treated her well for about three months. Thereafter, the applicants including the husband of respondent no. 2 started taunting respondent no. 2 that, nobody in her matrimonial house likes her as she belongs to lower caste. It is further stated in the FIR that the applicants used to get all the works done from respondent no. 2 and they used to provide her left over food in the house and used to abuse and beat her.

2.2] It is further stated in the FIR that, the applicants had threatened respondent no. 2 that if she wants to live with them, she should bring Rs. 7.00 lakhs from her parents. When respondent no. 2 informed about the said demand to her parents and brother, her brother, namely, Rahul Eknath Tandale came to her house at Aurangabad and fulfilled the part demand of money thereby giving Rs. 70,000/- to the husband of respondent no. 2. Even after fulfilling the part demand of money, the applicants including her husband harassed respondent no. 2 thereby saying she should not live along with them she is infertile as she is unable to bear a child and always used to abuse and beat her and further she was threatened of life.

2.3] It is further the case of respondent no. 2 in the FIR that, on 22.01.2019, the applicants including husband abused and beat her and drove her out of the house, warning her unless she brings Rs. 7.00 lakhs from her parents, she should not return to her matrimonial house. Thereafter, on 27.06.2019, the respondent

no. 2 filed a complaint against the applicants including her husband with the Women's Grievance Redressal Forum at Kaij but in vain. Eventually, she filed FIR against all the applicants including her husband with the Kaij Police Station, Beed.

3.1] The applicants have stated in the Criminal Application that the allegations made against them by the respondent no. 2 are vague and baseless. After the marriage of respondent no. 2, she and her husband resided with the applicants till 30th July, 2017 and thereafter they had started residing separately. Respondent no. 2 and her husband demanded share in the property and there were disputes over the said issue and, therefore, applicant no. 1 filed complaint with Commissioner of Police, Aurangabad and Jinsi Police Station.

3.2] The applicants have further stated in the Criminal Application that the respondent no. 2 left the matrimonial house on 22.01.2019 and since then she has been staying with her parents and the complaint is filed on 02.10.2019. The complaint is an afterthought. The delay caused in filing the complaint is not explained. It is further stated in the application that not a single specific incident is alleged in the complaint.

3.3] The applicants have further stated in the application that the applicant no. 3, who is a brother-in-law of respondent no. 2, is a Chartered Accountant, applicant no. 4, who is sister-in-law of respondent no. 2, is the wife of applicant no. 3 and runs a

business of clothes. Applicant no. 1 is the mother-in-law of respondent no. 2 and does a business along with applicant no. 4. Applicant no. 2 is an old aged retired person who was Manager in a private company. They further stated that they have nothing to do with the marital life of respondent no. 2 and her husband. Respondent no. 2 and her husband were residing separately from 31.07.2017.

4] The charge-sheet was filed before the learned JMFC, Kaij; and the same was culminated in R.C.C. No. 02/2020, which is pending before JMFC, Kaij.

B] SUBMISSION OF PARTIES : -

5] Heard learned counsel Mr. N. S. Ghanekar for the applicants and learned APP Mr. R. V. Dasalkar for respondent no. 1/State.

6] Learned counsel for the applicants submits that, taking into consideration all allegations without adding and subtracting anything it would not be an offence under Section 498A of IPC that the period of cohabitation is so small that no prudent person with rational basis would consider it to be true and correct. He further submitted that for constituting offence under Section 498A of IPC, there has to be evidence of cruelty by husband or relatives of husband. From the allegations levelled against the applicants, who are relatives, it appears that ill-treatment was not pursuant to any demand and in fact no witness in the entire
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charge-sheet claims that applicants herein had ever made any demand to any of the witnesses and for the same respondent no. 2 was harassed. He further submitted that the proceeding against the applicants will be abuse of process and sheer waste of time and as such applicants deserve to be discharged. The applicants are innocent persons. The contents of the FIR lacks the ingredients of the offences alleged against the applicants and, hence, the proceedings in R.C.C. No. 02/2020 be quashed and set aside in the interest of justice.

7] Learned APP Mr. R. V. Dasalkar has strongly objected to the application and submitted that respondent no. 2 has made specific allegations against the applicants, which shows that cognizable offence is made out. All the accused and respondent no. 2 were staying together at the relevant time. Hence, there is no question of quashing the proceedings.

C] **ANALYSIS :-**

8] Respondent no. 2 has specifically stated in the FIR that the applicants, who are the father-in-law, mother-in-law, brother-in-law and sister-in-law, have ill-treated her using foul language and made unlawful monetary demand. Due to non-fulfillment of monetary demand, she was beaten up and abused on several occasions. In the said complaint, respondent no. 2 has specifically stated that initially for a period of three months, she was treated well by her husband and applicants and later on she was ill-treated and harassed by saying she belongs to lower caste and she is
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infertile i.e. unable to bear child. On being fed up with the harassment and ill-treatment, respondent no. 2 approached the Women's Grievance Redressal Forum, Kaij so as to redress her grievance but in vain. Therefore, she lodged First Information Report No. 0433/2019 with Kaij Police Station, Dist. Beed, for the offences punishable under Sections 498A, 323, 504, 506 r/w 34 of the Indian Penal Code, against the applicants. The charge-sheet was also filed, which culminated into R.C.C. which is pending before learned JMFC, Kaij, Dist. Beed.

9] Perusal of the First Information Report shows that, respondent no. 2, her husband and applicants were residing together at the relevant time. There appears specific allegations against the applicants including the husband of respondent no. 2. The applicants had made an unlawful monetary demand of Rs.7.00 lakhs for starting a business. There are allegations against applicants for harassing the respondent no. 2 and subjecting her to cruelty and driving her out of the house. The question whether the respondent no. 2 has in fact been harassed and treated with cruelty is a matter of trial but at this stage, no case is made out for quashing the proceedings.

10] Thus, taking into consideration the complaint of respondent No. 2 about ill-treatment and harassment meted out to her and the seriousness of statements recorded in the First Information Report, we are of the considered view that this is not a fit case where the powers of this Court under Section 482 of the

Code of Criminal Procedure should be exercised for quashing of the First Information Report and the criminal proceedings.

11] In the result, we pass the following order :

ORDER

I] Criminal Application stands rejected.

II] Needless to state, any observations made herein are only for the purposes of deciding the present application only and would have no bearing on the final adjudication of the proceedings.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE