

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

CRIMINAL APPLICATION NO. 1110 OF 2021

1. Harshad s/o Govind Jadhav (Husband)
Age : 33 years, Occu. : Service,
R/o. N-33, L-65, 0/3 Sahyadri Nagar,
Near BSNL Office, CIDCO, Nashik.
2. Govind s/o Damodar Jadhav (Father-in-law)
Age : 69 years, Occu. Retired,
R/o. As above.
3. Alka w/o Govind Jadhav, (Mother-in-law)
Age : 51 years, Occu : Household,
R/o. As above.
4. Anup s/o Govind Jadhav, (Brother-in-law)
Age : 34 years, Occu. Business,
R/o. Gayatri Nagar, Kalavaibhav Society,
Dwarka, Nashik.
5. Rutuja d/o Satish Kshirsagar (Cousin sister-in-law)
Age : 26 years, Occu. Education,
R/o. At Present V-18, Vishnu Nagar,
Tq. Dist. Aurangabad.
6. Sayli w/o Ganesh Raut (Cousin sister-in-law)
Age : 28 years, occu. Household,
R/o. As above.
7. Natharav s/o Bansi Sonavne (Grand father-in-law, maternal)
Age : 80 years, Occu. None,
R/o. Post Shiur, Tq. Vaijapur,
Dist. Aurangabad.
8. Kamlabai w/o Nathravo Sonavne (Grand mother-in-law, maternal)
Age : 72 years, Occu. Household,
R/o. As above.

9. Janardhan s/o Sakhahari Ghumare (Not a relative)
Age : 65 years, Occu. Service,
R/o. N-32, R-1-2/5, Hanuman Chowk,
CIDCO, Nashik.
10. Sunita w/o Satish Kshirsagar, (Aunt-in-law, maternal)
Age : 52 years, Occu. Household,
R/o. At present V-18, Vishnu Nagar,
Tq. Dist. Aurangabad.
11. Tejasvini w/o Sandip Bidwe (Sister-in-law)
Age : 31 years, Occu. Household,
C-602, Anjali Gatha, Chikhali Bk.,
Dist. Pune.

Applicants..**Versus**

1. The State of Maharashtra
2. Kaveri w/o Harshad Jadhav,
Age : 24 years, Occu. Service,
R/o. C/o. Vinayak Muktaji Dalavi,
Plot No. A-5, Vishranti Chowk,
Jai Bhavani Nagar, Mukundwadi Railway Station,
Aurangabad.

...Respondents

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Mr. Vikrant S. Palsikar, Advocate for the Applicants

Mr. S. D. Ghayal, APP for respondent/State

Mr. Shaikh Sohail Subhedar, Advocate for respondent no. 2

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

DATE : AUGUST 11, 2022

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

1. By the present application filed under Section 482 of the Code of Criminal Procedure, the applicants are praying for quashing of the First Information Report bearing No. 60/2021 dated 24.02.2021 registered with Pundlik Nagar Police Station, Aurangabad, for the offences punishable under Sections 498A, 323, 504 r/w 34 of the Indian Penal Code which culminated into R.C.C. No. 99 of 2022, which is pending before the Judicial Magistrate First Class, Aurangabad.

FACTS :-

2. The Applicants have attached copy of F.I.R. along with the Criminal Application. It is the case of respondent no. 2 in the FIR that she got married with applicant no. 1 on 07.05.2019 as per Hindu rites and rituals. In the marriage ceremony, all the relatives were given respect, respondent no. 2 was given golden ornaments, her husband was given golden ring and the relatives from matrimonial side were given household articles and fare of to and fro travelling. It is further stated in the FIR that, after the marriage, initially for a period of two months, all the applicants treated her with love and affection but later on they started harassing her saying that the parents of respondent no.2 did not respect them in the marriage ceremony and the household articles given were quality less. It is further stated in the FIR that, the relatives further said that the house in which they were residing is small one and she should bring Rs. 5.00 lakhs from her parents to

purchase new house and on this count, she was abused and beaten up. Upon such unlawful monetary demand, respondent no. 2 told them that her parents are financially poor and they even can't give Rs. 5/- lakhs but, the applicants turned a deaf ear.

3. It is further stated in the FIR that, she had informed her parents about the ill-treatment and the harassment meted out to her by the applicants and thereupon her parents had convinced the applicants but there was no change in their behaviour, instead they kept her harassing on the aforesaid counts. Being fed up with the ill-treatment and harassment at the hands of the applicants, respondent no. 2 filed First Information Report referred to above which culminated into R.C.C. No. 99 of 2022, which is pending before the Judicial Magistrate First Class, Aurangabad

4. The applicants have stated in the Criminal Application that on the very inception of cohabitation, respondent no. 2 had conveyed applicant no. 1 that her marriage with applicant no. 1 was against her wishes. Respondent no. 2 used to harass applicants no. 1 to 3, on trivial reasons. Respondent no. 2 was disrespecting, insulting and abusing applicant nos. 1 to 3 with disgraceful language and slang. Respondent no. 2 used to pressurize applicant no. 1 to live separately from applicant Nos. 2 and 3. Respondent no. 2 had no interest in fulfilling her marital duties or even desire to continue cohabitation. Respondent no. 2 made applicant no. 1 to drop her home with all her belongings within few months of marriage and ever since she is residing at her parental home and

has continued to harass applicants through every possible way.

5. Applicants have further stated in the present application that the applicant nos. 2 and 3 are old aged parents of applicant no. 1. They always wanted to have their son's marital life peaceful and prosperous. Applicant nos. 2 and 3 always tried not to cause any interference in their son's matrimonial life, though they live together. Applicant no. 3 took care of household chores of all four members and she never complained in respect of non-cooperation of respondent no. 2.

6. The applicants have further stated in the application that, the applicant no. 4 (brother-in-law of respondent no. 2) is already married and has been staying separately for many years before marriage of applicant no. 1 and respondent no. 2. Applicant nos. 5 (Cousin sister of Applicant No. 1) and 10 (maternal Aunt of Applicant No. 1) reside in village Naregaon, Dist. Aurangabad, with their respective families. Applicant no. 6 resides at Palu in Khed taluka, Dist. Pune along with her husband. Applicant nos. 7 and 8 are admittedly old aged bed ridden parents of applicant no. 3 and grand parents of Applicant No. 1 living in a remote village of Shiur, Vaijapur, Dist. Aurangabad. Applicant no. 9 is not even relative of applicant no. 1. He is old friend of applicant no. 2. Applicant no. 11, who is sister of applicant no. 1, was married 10 years before respondent no. 2's wedding and resides in Chikhali at Pune. As such, all the applicants except applicant nos. 1 to 3, reside separately from respondent no. 2 and

they have nothing to do with her matrimonial life and the allegations levelled against these applicants are general in nature and perusal thereof makes out no cognizable offence.

7. The applicants have further stated in the application that the respondent no. 2 deliberately filed proceedings under Section 125 of the Code of Criminal Procedure against the applicant no. 1 before Id. Family Court, Aurangabad, seeking maintenance. Respondent no. 2 has made baseless allegations against the applicant no. 1 in the said proceedings. In the meanwhile, respondent no. 2 filed FIR against all the applicants.

8. Subsequently, during the pendency of Application, the charge-sheet was filed before the learned Judicial Magistrate First Class, Aurangabad; and the same was culminated in R.C.C. No. 99/2022. The Applicants amended the Criminal Application and prayed for quashing of Charge Sheet and R.C.C. No. 99 of 2022.

SUBMISSIONS: -

9. Heard Mr. Vikrant Palshikar learned advocate for the applicants, Mr. S. D. Ghayal, learned APP for the State, and learned advocate Mr. Shaikh Sohail Subhedar for respondent No.2.

10. Learned counsel for the applicants submitted that the applicants are innocent and haven't committed any offence as

alleged in the FIR. They have been falsely implicated in the crime. The allegations made against them are false, illogical, vague and general in nature. No specific time period, instances or material particulars are stated. No specific role is attributed to each of the applicants. He further submitted that there are no explicit instances or material particulars which would strengthen the contention of the respondent no. 2 that there was harassment or ill-treatment at the hands of the applicants, which is contemplated by the provision of Section 498A of the IPC to make out the *prima facie* case against the applicants.

11. Learned counsel for the applicants further submitted that the applicants no. 4 to 11 at no point of time shared the shelter with respondent no. 2 or her husband. They admittedly reside at different places and have nothing to do with the marital life of respondent no. 2 and applicant no. 1. Applicant nos. 2, 3, 7, 8 and 9 are admittedly old aged persons. They are not in a position to harass respondent no. 2. The allegations made even if are taken at their face value and accepted in their entirety, do not *prima facie* constitute any offence or make out a case against the applicants. Complaint is instituted with an ulterior motive for wreaking vengeance on the applicants and with a view to spite them due to private and personal grudge. The delay caused in registering the complaint is unexplained which washes out its credibility. He further submitted that, applicants certainly do not deserve to have their most fundamental and precious right jeopardized on such flimsy case and hence he seeks quashing of the

FIR and the subsequent proceedings against the applicants.

12. After hearing the parties at length, when this Court showed disinclination to grant relief in favour of applicant nos. 1 to 3 i.e. husband, father-in-law and mother-in-law of respondent no. 2, the learned counsel for the applicants, on instructions, sought to withdraw the application to their extent. Leave granted. The Application stands disposed of as withdrawn to the extent of applicant nos. 1 to 3. Now, therefore, the application is considered only insofar as applicant nos. 4 and 11 are concerned.

13. Learned counsel for the applicants further stated that Applicant Nos. 4 to 11 are staying at different places, whereas the matrimonial home of respondent No. 2 is at Nashik. The only allegation against Applicant Nos. 4 to 11 is that they used to say respondent no. 2 that they were not respected by her parents in the marriage ceremony. It is alleged that the household articles were given in the marriage ceremony were quality less and further unlawful demand of monies were made. No specific overt act is attributed against each of the applicants. Hence, no case is made out by respondent no. 2, in her complaint against Applicant Nos. 4 to 11, therefore, the Criminal Application be allowed to the extent of Applicant Nos. 4 to 11.

14. Learned APP – Mr. S. D. Ghayal and learned counsel Mr. Shaikh Sohail Subhedar for respondent no. 2 submitted that specific allegations have been made against all the applicants,

hence there is no question of quashing of FIR and R.C.C. against Applicant Nos. 4 to 11.

ANALYSIS :-

15. For quashing the criminal proceedings under Section 482 of the Cr.P.C. we have to see, whether the allegations in the complaint and F.I.R. *prima facie* establish the ingredients of the offence alleged. We are of the view that under Section 482 of the Cr.P.C., we have inherent powers to make such orders as may be necessary to prevent abuse of the process of any law to secure the ends of justice.

16. The First Information Report has been lodged by the respondent no. 2. In the said report, respondent no. 2 has specifically stated that initially for a period of two months, she was treated well by the applicants including the husband. Soon thereafter, the applicants started ill-treating and harassing her and made an unlawful monetary demand of Rs. 5.00 lakhs from her for purchasing new house.

17. Perusal of the FIR shows that the allegations in respect of improper respect in the marriage ceremony and the unlawful monetary demand have been levelled against all the applicant but no specific allegation is attributed against each of the applicants. Except the aforesaid allegations, there are no other allegations levelled against the Applicants No. 4 to 11. They are omnibus and

general in nature. Further, these applicants are residing separately from respondent no. 2 and applicant no. 1.

18. We have in our recently decided Criminal Application No.2230/2020 [Narayan s/o Eknath Devkar and others Vs. State of Maharashtra and others, decided on 25.07.2022], after considering the various judgments in paragraph nos. 22 to 27, held that continuation of prosecution against far off relatives would amount to abuse of process of law.

19. The Apex Court in **Geeta Mehrotra Vs. State of U.P.**, reported in AIR 2013 SC 181 stated “It can thus be seen that mere reference to family members without any specific allegations against them would not justify taking cognizance against them. There is a tendency to involve the entire family members in a matrimonial dispute.

20. This Court in **Shaikh Mushrraf Pasha and others Vs. State of Maharashtra and another**, reported in 2021(2) AVR (Cri.) 343, has observed that continuance of prosecution against relative of husband is nothing but abuse of process of law.

21. Thus, we are of the considered view that the respondent No.2 only with an intention to harass the applicant No.1 and his family members, has filed the complaint with an ulterior motive, also against far off relatives i.e. respondent Nos. 4 to 11. Continuation of prosecution against Applicant Nos. 4 to 11, who are far off relatives of husband and who stay separately in
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their own houses, in our opinion, would amount to abuse of process of law.

22. Taking into consideration the ratio laid down in the cases of Gian Singh and Geeta Mehrotra (supra), we are of the considered view that so far as applicant nos. 4 to 11 are concerned, there are no specific allegations against them and only with a view to harass them they have been arrayed as an accused in the FIR. Therefore, in our view, this is a fit case wherein we should exercise our discretion under Section 482 of the Code of Criminal Procedure to quash the FIR and RCC as against the applicant nos. 4 to 11.

ORDER

1. Criminal Application is partly allowed.
2. Criminal Application insofar as applicants no. 1 to 3 are concerned, stands disposed of as withdrawn.
3. Criminal Application to the extent of applicant nos. 4 to 11 stands allowed in terms of prayer clause 'B' and 'BB' of the application.
4. The Criminal Application stands disposed of accordingly.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE