

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

CRIMINAL APPLICATION NO. 1658 OF 2022

1. Umesh s/o Ankush Kasabe,
Age : 35 years, Occu. Unemployed,
R/o. Diksal, Tal. Kallam,
Dist. Osmanabad,
At present,
C/o. Vishwanath Shinde,
Gandhi Nagar, Kharalwadi,
Near Durga Mata Mandir, Pimpri,
Pune.
2. Ankush s/o. Shivaji Kasabe,
Age : 58 years, Occu. Service,
R/o. Diksal, Tal. Kallam,
Dist. Osmanabad.
3. Mandakini w/o. Ankush Kasabe,
Age : 52 years, Occu. Household,
R/o. Diksal, Tal. Kallam,
Dist. Osmanabad.
4. Pooja d/o. Ankush Kasabe
@ Pooja w/o. Manoj Dunghav,
R/o. Teachers Colony, Kaij, Tal. Kaij,
Dist. Beed,
At present -
Mauli Opticals, Ashti, Tal. Ashti,
Dist. Beed.

...Petitioners

Versus

1. The State of Maharashtra
2. Sangeeta w/o. Umesh Kasabe
@ Sangeeta d/o. Mahadeo Randive,
Age : 34 years, Occu. Service,

R/o. Kurne Nagar, Osmanabad,
Dist. Osmanabad.

...Respondents

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Mr. Sushant B. Choudhari, Advocate for the petitioners
Mr. S. D. Ghayal, APP for respondent/State

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

DATE : AUGUST 02, 2022

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

1. By invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973 and Article 226 of the Constitution of India, the applicants seek quashing of the First Information Report No. 0053/2022 registered at Osmanabad City Police Station, Osmanabad, for the offences punishable under Sections 498A, 323, 504, 506 r/w 34 of the Indian Penal Code.

A] FACTS : -

2. The marriage of respondent no. 2 and applicant no. 1 was solemnized on 16.04.2012 at Swayanar Mangal Karyalaya, Osmanabad. Out of the said wedlock, they were blessed with two daughters, namely, Kanank and Abha; who were born on

03.12.2013 and 16.02.2018 respectively. After the marriage, respondent no. 2 and applicant no. 1, lived happily for 7-8 years.

3. It is stated by respondent no. 2 in her complaint that she was working as a Teacher and her husband was jobless and used to demand money from her. Since 2018, Umesh (husband) along with the applicants used to beat and abuse her in filthy language and demand monies for construction of a house. Therefore, she had availed loan of Rs.6.00 lakhs from the Society to meet the demand of applicants. On fulfillment of demand, she was treated well for few days.

4. It is further stated by respondent no. 2 in her complaint that, after few days, the applicants again demanded monies from the respondent no. 2 on the ground that they want to perform the marriage of applicant no. 4. When respondent no. 2 denied to fulfill the demand of money, she was abused and beaten by the applicants and driven out of the house in 2018. Since then the respondent no. 2 has been staying with her parents in Osmanabad. It is further stated by respondent no. 2 in her complaint that on 06.03.2022 at about 07:00 pm, when the respondent no. 2 along with her daughters was at her paternal home, applicant nos. 1 to 3 came there and said if she wants to cohabit with applicant no.1, she has to fulfill the demand of money, else she would be killed if she returns back to her matrimonial home. Therefore, on 14.03.2022, the Respondent No. 2, lodged Complaint with Osmanabad City Police Station;

which culminated into F.I.R. No. 53 of 2022, against all the four Applicants.

5. The applicants have stated in the instant Criminal Application that they are the husband, father-in-law, mother-in-law and sister-in-law of the respondent no. 2, respectively. It is further stated that after the marriage; the respondent no. 2 never came to reside at the house of applicants as she was employed as a Primary Teacher in Zilla Parishad, Osmanabad. It is further case of the applicants that she used to reside at her paternal home along with her husband. Applicant no. 1 was initially working in a private company at Aurangabad but he had to resign from his job due to differences in family and thereafter he started residing at Osmanabad along with respondent no. 2. Applicant no. 1 did not get job in Osmanabad and, therefore, he had started business of Share market. Due to Covid-19 pandemic, his business of Share market was affected and he had to stop the business. It is the case of the applicants that though the financial condition of the applicant no. 1 was not good, the respondent no. 2 decided to purchase the house from one Pawankumar Uday Andhare. As the respondent no. 2 could not avail the loan from the Bank, she purchased the said house in the name of her brother. On purchase of house, the respondent no. 2 was pressurizing applicant no. 1 to pay the amount. It is further stated in the application that the applicant no. 1 had paid Rs.24,86,000/- to respondent no. 2 and her brother. The respondent no. 2 was behaving as per her wish and will and on various occasions she had tortured the applicant

no. 1 and, therefore, he left the house of respondent no. 2 and started residing with his family members.

6. It is further stated in the application that, thereafter, the applicant no. 1 issued a notice to respondent no. 2 for restitution of conjugal rights and requested for cohabitation. Applicant no. 1 issued another notice to respondent no. 2 and her brother demanding money given at the time of purchasing house. Respondent no. 2 did not reply to the said notices and hence applicant no. 1 finally filed Hindu Marriage Petition No. 12/2022 before the Family Court, Osmanabad seeking dissolution of marriage.

7. Respondent no. 2, on coming to know about filing of HMP before the Family Court, Osmanabad, registered aforesaid First Information Report, with a view to harass all the applicants.

B] SUBMISSION OF PARTIES : -

8. Heard learned counsel Mr. Sushant B. Choudhari for the applicants and learned APP Mr. S. D. Ghayal for respondent no.1/State.

9. Learned counsel for the applicants submitted that the applicants are falsely implicated in the present FIR with a view to harass the applicants and no such incident had taken place which is alleged in the complaint. Baseless allegations are levelled against the applicants as the applicant no. 1 himself had given
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approximately 24.00 lakhs to respondent no. 2 and her brother and same is evident from the account details. He further submitted that the respondent no. 2 filed complaint only when she came to know about filing of HMP seeking dissolution of marriage. As per the contents of the complaint filed by respondent no. 2, she does not reside with the applicants since 2018 and it clearly shows that she is not in contact with the applicants. On the basis of the allegations made in the criminal complaint, no cognizable offence can be said to be made out.

10. Learned APP Mr. S. D. Ghayal, on the other hand, submitted that specific allegations have been levelled against all the applicants and the husband of respondent no. 2, which shows that cognizable offence is made out. All the Applicants were staying together at the relevant time. Hence, there is no question of quashing the First Information Report.

C] ANALYSIS :-

11. A detailed First Information Report has been lodged by the Investigating Officer on the basis of complaint of Respondent No. 2. In the said complaint, respondent no. 2 has specifically stated that initially for a period of 7-8 years, she was treated with love and affection by the applicants including her husband (Umesh) Applicant No. 1. In 2018, the applicants started ill-treating her and demanded monies for construction of house. Though the respondent no. 2 had fulfilled the demand by availing loan of Rs.6.00 lakhs from the society, she was again harassed and

abused for demand of more money for performing the marriage of applicant no. 4. When she denied to fulfill another demand of money, she was abused in filthy language, beaten and driven out of the house. The F.I.R. further records complain of Respondent No.2 that on 06.03.2022, at about 07:00 p.m. when the Respondent No. 2 along with her daughters was at her parental house, the Applicants No. 1 to 3 came there and told Respondent No. 2 that if she wants to cohabit with Applicant No. 1, she will have to fulfill the demand of money, or else she will be killed if she returns back to her matrimonial house. Therefore, the Respondent No. 2 lodged complaint with Police; which was registered as F.I.R. under Sections 498A, 323, 504, 506 r/w 34 of the Indian Penal Code.

12. On perusal of the First Information Report, it *prima facie* appears that all the applicants have played role in harassing the respondent no. 2 and they are husband and relatives of the husband of respondent no. 2, staying together in common house at the relevant time. They were making unlawful demand and harassing the respondent no. 2. The submissions made by the Applicants in the Criminal Application are to be proved by Applicants in the criminal trial. The marriage of Applicant No. 1 with Respondent No. 2 was performed on 16.04.2012; the Applicant No. 4 was unmarried sister-in-law of Respondent No. 2, who lived together with them. The Applicant No. 4 got married much later only on 28.12.2021.

13. Thus, taking into consideration the complaint of Respondent No. 2 about harassment meted out to her and the seriousness of statements recorded in the First Information Report, we are of a considerable view that this cannot be 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. Hence, the following order :

ORDER

Criminal Application stands rejected.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE