

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

CRIMINAL APPLICATION NO. 1712 OF 2022

1. Shaikh Isa S/o. Shaikh Maula
Age : 31 years, Occ. : Auto Rickshaw Driver,
R/o. : Iqbal Nagar Gadegaon Road, Nanded,
Tq. & Dist. Nanded.
[Husband]
2. Sharifabee W/o. Shaikh Maula,
Age : 54 Years, Occ. : Household,
R/o. : H.9-5-1468, Iqbal Nagar Gadegan Road,
Nanded, Tq. & Dist. Nanded.
[Mother-in-law]
3. Shaikh Musa S/o. Shaikh Maula,
Age : 37 Years, Occ. : Labour,
R/o. As above,
[Brother-in-law]
4. Shaikh Ismail S/o. Shaikh Maula
Age : 34 Years, Occ. : Labour,
R/o. As above
[Brother-in-law]
5. Rukhsana Begum W/o. Mohammad Jameel,
Age : 34 Years, Occ. ; Household,
R/o. : H 9-6-124, Habibiya Masjid, Habibiya Colony,
Itwara Nanded, Tq. and Dist.Nanded.
[Sister-in-law]
6. Farzana Begum W/o. Nayeem,
Age : 27 Years, Occ. Household,
R/o. H 9-5-640, Hamidiya Colony,
Near Sadeq Kirana, Degloor Naka,
Itwara, Nanded, Tq. and Dist. Nanded.
[Sister-in-Law]
7. Ayesha Farhin Shaikh Irfan,
Age : 22 Years, Occ. : Household,
R/o. H 9-41302, Tyre Bord Road, Ganganagar,

Itwara, Nanded, Tq. & Dist. Nanded,
[Sister-in-Law]

8. Muskan Begum Abdul Babu,
Age : 19 Years, Occ. : Household,
R/o. H 4-7-16, Subhash Ganj, Mudkhed,
[Sister-in-Law]
9. Mohammad Jameel Mohammad Azam,
Age : 39 Years, Occ. : Labour,
R/o. : H 9-6-124, Habibiya Masjid, Habibiya Colony,
Itwara Nanded, Tq. and Dist. Nanded.
[Husband of Sister-in-law A-5]
10. Mohd. Nayeem S/o. Mohd. Rafiuddin,
Age : 34 Years, Occ : Labour,
R/o. H-9-5-640, Hamidiya Colony,
Near Sadeq Kirana, Degloor Naka,
Itwara, Nanded, Tq. and Dist. Nanded.
[Husband of Sister-in-law A-6]
11. Shaikh Irfan Shaikh Chandpasha,
Age : 29 Years, Occ : Labour,
R/o. H 9-41302, Tyre Bord Road, Ganganagar,
Itwara, Nanded, Tq. & Dist. Nanded,
[Husband Sister-in-law A-7]
12. Abdul Babu S/o Abdul Wahab,
Age : 31 Years, Occ. : Labour,
R/o. : H 4-7-16, Subhash Ganj, Mudkhed,
[Husband of Sister-in-law A-8]

... Applicants.

Versus

1. The State of Maharashtra,
Through Vimantal Police Station,
Tq. & Dist. Nanded
2. Shirin Begum W/o. Shaikh Isa,
Age : 27 Years, Occ. : Household,
R/o. Ayesha Colony, Asranagar, Nanded
Tq. & Dist. Nanded.

... Respondents

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Mr. G. R. Syed, Advocate for Applicant.

Mr. S. D. Ghayal, APP for Respondent No.1-State.

Mr. Dinesh Manwatkar h/f. Mr. Sachin S. Randive, Advocate for Respondent No.2.

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**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : 05th DECEMBER 2022.

JUDGEMENT (ABHAY S. WAGHWASE, J.) :

1. By invoking provisions under section 482 of Cr.P.C., husband and in-laws of respondent No.2 – Shirin Begum are seeking relief of quashment of crime and charge-sheet arising out of FIR at the instance of respondent No.2 herein.

2. Brief facts of the case :

According to respondent no.2, after marriage with applicant no.1 on 22.06.2020 she was properly treated for merely 15 days and thereafter there was taunting for not bringing fridge and household articles. That husband neglected to take her to the hospital in spite of having pain in the stomach. She has alleged that in July 2021, her husband and in-laws put up a demand of Auto-rickshaw and on such count she was maltreated. When she delivered child, nobody came to see her and the child. She was beaten by the accused when they came for the naming ceremony. Hence the FIR.

It is the above crime and the charge-sheet which required to be quashed and set aside by invoking section 482 of Cr.P.C.

3. Before advertng to the powers of this Court under section 482 of Cr.P.C. and the merits of the case, it is pertinent to note that when disinclination was shown by this Court as regards to entitlement of relief to applicant Nos.1 to 4, on instructions, their learned counsel sought permission to withdraw instant application as regards to them. Therefore, application remains only for consideration of rest of the applicants.

4. As to when powers under Section 482 of Cr.P.C. can be exercised is fairly settled by slew of judgments including ***Inder Mohan Goswami and Anr. Vs. State of Uttaranchal and Ors. ; (2007) 12 SCC 1 and Mahendra K.C. Vs. State of Karnataka and Another ; (2022) 2 Supreme Court Cases 129.***

5. Therefore, it is now to be seen whether powers under section 482 of Cr.P.C. should at all be exercised in this case.

On examining the FIR, it is seen that applicant No.1 was married to informant on 22-06-2020. She claims that after 15 days there was taunting to her for not bringing household articles and not arranging proper food in the marriage and on such counts, she was subjected to mental cruelty. Then, she has alleged that she was not taken to hospital by her husband in spite of her ill and subsequently, in July 2021 there seems to be demand of Rs.2,00,000/-, she has named her husband, mother-in-law and brothers-in-law, i.e. applicant Nos.1 to 4.

6. In the entire FIR, allegations are levelled against only applicant Nos.1 to 4. As to what role rest of applicant Nos. 5 to 12 played has not been either clarified or defined in the FIR. They all are arraigned as accused. Even charge-sheet is filed, statements of family members of informant are in verbatim, monotonous in nature, they are also not clarifying the roles played by applicant No.5 to 12.

7. In the recent case of ***Kahkashan Kausar alias Sonam and others v. State of Bihar and others*** ; (2022) 6 SCC 599, the Hon'ble Apex Court in para 18 has held that there is growing tendency of implicating all relatives by levelling swiping allegations and therefore taking the same into account the Hon'ble Apex Court held that it amounts to abuse of process of law instigating exercise of powers under section 482 of Cr.PC. Therefore, in our considered opinion, in view of the principles laid down in the case of ***State of Haryana and others v. Ch. Bhajan Lal*** ; AIR 1992 SC 604, more particularly clause (7) as reflected in para 108 of the judgment, the case of applicant Nos.5 to 12 is also of similar nature.

8. In the case in hand, on visiting the FIR, it reveals that allegations are primarily against applicant nos.1 to 4. Therefore, they do not deserve any relief, however, there being no allegations against rest of the applicants, their impleadment seems to be with ulterior motive of roping entire family.

Therefore, applicant Nos.5 to 12 deserve relief as prayed. Consequently, we find it a fit case to exercise powers under section 482 of Cr.P.C. as against such applicants and accordingly, we proceed to pass the following order :-

ORDER

- i) The application is allowed partly.
- ii) Application of applicant Nos.1 to 4 is dismissed as withdrawn.
- iii) Application of applicant Nos. 5 to 12 is allowed in terms of prayer clauses (B) and (B-1).

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)