

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

CRIMINAL APPLICATION NO. 1960 OF 2022

1. Ratnakar S/o Prabhkar Wedhane (Father-in-law)
Age : 58 Years, Occu. : Business,
2. Asha W/o Ratnakar Wedhane (Mother-in-law)
Age : 55 Years, Occu. : Household,
3. Pratik S/o Ratnakar Wedhane (Brother-in-law)
Age : 27 Years, Occu. : Nil,
All Kalwan Road, Abhona, Tq. Kalwan,
Dist. Nashik.
4. Kalyani W/o Vivek Badhan (Sister-in-law)
Age : 25 Years, Occu. : Household,
5. Vivek S/o Devidas Badhan (Husband of sister-in-law),
Age : 41 Years, Occu. : Business,
Both R/o Flat No.C/14, Mandar Co-operative
Housing Society, Gole Colony, Nashik – 422 002
Tq. & Dist. Nashik.
6. Swapnali W/o Vaibhav Shirode (Sister-in-law),
Age : 32 Years, Occu. : Household,
7. Vaibhav S/o Ashok Shirode (Husband of sister-in-law)
Age : 35 Years, Occu. : Service,
Both R/o Bramhangaon, Tq. Satana, Dist. Nashik
8. Dipali W/o Harshal Gahiwade (Sister-in-law)
Age : 32 Years, Occu. : Household,
9. Harshal S/o Prakash Gahiwade (Husband of sister-in-Law)
Age : 33 Years, Occu. : Service,
Both R/o. Ahmedabad, State - Gujrat

*As per order dated
27.07.2022 Application is
disposed of as withdrawn
as against applicant Nos.1
and 2.*

... Applicants.
(Orig.Accused Nos.2 to 10)

Versus

1. The State of Maharashtra,
Chalisgaon Police Station, Chalisgaon,
Tq. Chalisgaon, Dist Jalgaon,
2. Dipali W/o Pavan Wedhane
Age : 31 Years, Occu. : Household,
R/o. C/o. Prakash Jagannath Pingle
“Radheya”, Near School No.1, Tilak Chouk,
Chalisgaon, Tq. Chalisgaon, Dist. Jalgaon.

... Respondents

(Resp. No.2 is Orig. informant)

...

Mr. Amol S. Gandhi, Advocate for Applicant.

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

Mr. Saeed S. Shaikh, Advocate for Respondent No.2 (Appointed)

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

DATE : 02nd DECEMBER, 2022

JUDGEMENT (ABHAY S. WAGHWASE, J.) :

1. Crime bearing No. 54 of 2022 registered at Chalisgaon Police Station for offences under sections 498-A, 377, 323, 504, 506 and 406 of IPC, on the basis of FIR at the instance of present respondent no.2 and the consequential charge-sheet arising out of it, are both sought to be quashed and set aside by the applicants herein by praying to exercise inherent powers under section 482 of Cr.P.C.

Facts leading to registration of FIR

2. The sum and substance of the FIR filed at the instance of respondent No.2 is that, after her marriage with accused No.1 on 29.06.2020, initially for a period of 8-10 days she was treated properly. Thereafter, when she wanted to go to see her sick father, she has alleged that there was quarrel by husband, parents-in-law and brother-in-law. That as she was undergoing education and when she and her husband rented premises near her college, her in-laws got angered. She alleges that during Covid-19 when she went to attend the college, her husband tracked her location and suspected her character. The husband and in-laws demanded money for purchasing a car for husband. Her husband had unnatural sex with her against her wish and showed her obscene videos. Because of the maltreatment and demand of money, she had approached police and lodged the FIR.

3. After registration of FIR, police undertook the exercise of investigation and after completing the same, charge-sheet came to be filed. The above FIR and the said charge-sheet are now sought to be quashed and set aside by way of instant proceeding.

4. Here, applicants have invoked inherent jurisdiction of this Court under section 482 of Cr.P.C. In catena of judgments the Hon'ble Apex Court has time and again reiterated that inherent powers under section 482 of Cr.P.C. can be exercised by the High Court; *firstly*, to give effect to an order under Cr.P.C.,

secondly, to prevent abuse of process of court and *thirdly*, to secure ends of justice.

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. Having dealt with the inherent powers under section 482 of Cr.P.C., we now turn to the FIR and charge-sheet in the case in hand to examine whether the case for exercise of such powers is at all made out.

SUBMISSIONS

6. It is pertinent to note that before issuance of notice, after hearing the learned counsel for applicants at the admission stage, when disinclination was shown by this Court to consider grant of relief with regard to applicant Nos.1 and 2, on instructions, learned counsel for applicants had withdrawn application to their extent. Resultantly, now application of only respondent nos. 3 to 7 has remained for consideration.

7. Learned counsel for applicants would submit that the FIR at the instance of respondent no.2 is patently false, baseless and sheer abuse of process of law. Inviting our attention to the contents of FIR, he would point out that almost all allegations are directed against non-applicant husband and

applicant nos.1 and 2 i.e. parents-in-law, however, husband is not before the Court and application of applicant nos. 1 and 2 is already withdrawn. As regards the present applicant Nos.3 to 9 are concerned, it is his submission that no specific role is attributed to any of them. He states that respondent Nos.4 and 5 are residents of Nashik city, whereas, applicant Nos.6 and 7 are residents of Bramhangaon, District Nashik and respondent Nos.8 and 9 are not at all relatives and are now residents of Ahmedabad. However, they all are implicated with sole intention of roping in entire family. Lastly, he submitted that making present applicant Nos.3 to 9 face unnecessary prosecution would render injustice to them. That, none of the ingredients of offences with which they are implicated are made out or available with the entire charge-sheet and hence, he prays for the relief as sought.

8. On behalf of the State, learned APP strongly opposed by pointing out that shortly after marriage, informant was subjected to maltreatment. There are allegations like not allowing the informant to visit her parents in spite of her father being ill. As regards the husband is concerned, it is alleged that against her will and wish he had indulged in and forced respondent no.2 for unnatural sexual intercourse. He had videographed the said acts and had also threatened to make the same viral. Learned APP pointed out that accused himself had admitted about such act and conduct and had given undertaking to delete the same. There is undertaking to that extent on record. He further

pointed out that all applicants had jointly put up a demand of Rs.15,00,000/- for purchasing a car for non-applicant accused no.1-husband. With such allegations on record, investigation was carried out and the same is completed and it is revealed upon investigation that applicants have not only maltreated respondent no.2, but they have also made her life miserable and hence she was constrained to file complaint. Therefore, applicant Nos.3 to 9 deserve to face the legal consequences at all.

9. Learned counsel for respondent No.2 also took us through the contents of FIR and would submit that involvement of all respondent Nos.3 to 7 is clearly reflected in the FIR. What role they played has been specified in the complaint. About the pervert act of accused-husband, he would submit that accused-husband repeatedly subjected respondent no.2 to unnatural sex. That informant had disclosed it and it was all against her wish and will. Husband had also threatened to make the videographs viral. There are allegations against all applicants for putting up a demand of Rs.15,00,000/- for purchase of car and ill-treating the informant on such count. Therefore, there is material to attract all offences stated in the FIR and hence he prays to dismiss the application.

10. Here, FIR is registered for offences under sections 498-A, 377, 323, 504, 506 and 406 of IPC. On carefully examining the contents of FIR it is seen that, according to the informant, after marriage everything was smooth

for 8 to 10 days, but thereafter when she wanted to visit her father on account of his illness, it is stated that she was prevented and abused. Further allegations are that her in-laws were also annoyed because she had made accused no.1 husband to take rented premises which was near educational institution and on such count also there was some taunting to her and abuse to her. In our opinion, such allegations are petty in nature or general in nature. No specific role is attributed to applicant Nos.3 to 9. It is pertinent to note that they are residents of distinct places. In-laws of respondent no.1 stayed at Abhona, whereas respondent Nos.2 and her husband – accused no.1 were residing at Pune on account of his job. Therefore, it is difficult to accept allegation that all of them indulged in abusing her in filthy language. It is apparent that in the FIR, most of the allegations are levelled against husband, however, as stated above, husband is not before us and therefore it is not necessary to dwell on his role in the present proceeding. As stated above, allegations against respondent Nos.3 to 9 are non-specific, general, vague and omnibus in nature. They being residents of distinct places, when they came in contact with respondent no.2, who in fact was residing at Pune, has also not being specified in the complaint. Therefore, taking into account the same, in our opinion, it would be abuse of process of law to make them face trial.

After going through the charge-sheet, the statements under Section 161 of Cr.PC. are found to be stereotype and monotonous in nature.

11. Very recently, the Hon'ble Apex Court in the 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 to rope in entire family, including distant relatives, who in fact have no connection with the daily affairs of matrimonial discord between husband and wife. 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 in hand is also of similar nature.

12. Keeping the facts and FIR in above referred case before the Hon'ble Apex Court in *juxtaposition* with the FIR in the case in hand, it is clear that, even when applicant Nos.3 to 9 are not shown to be directly involved in alleged ill-treatment, still they are arraigned. Sweeping allegations are apparently made against entire family along with husband and parents-in-law. For the said reasons, we deem it a fit case to intervene.

We are convinced that inherent powers under section 482 of Cr.P.C. are required to be exercised. Resultantly, we proceed to pass following order :

ORDER

- i) The application is allowed.

- ii) Crime vide FIR No.054 of 2022 registered with Chalisgaon Police Station for offences under sections 498-A, 377, 323, 504, 506 and 406 of IPC and the consequential charge-sheet vide R.C.C. No. 137 of 2022 pending on the file of Judicial Magistrate, First Class, Chalisgaon are quashed and set aside.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)