

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

CRIMINAL APPLICATION NO. 1961 OF 2022

1. Kaushal s/o Rekhi Singh Chaudhary,
Age : 31 years, Occu. Engineer,
R/o. E-256, Taranagar, near Khirni Phatak,
Village : Jhotwara, Dist. Jaipur, State : Rajasthan.
 2. Krishna w/o Rekhi Sing Chaudhary,
Age : 50 years, Occu. Housemaker,
R/o. E-256, Taranagar, near Khirni Phatak,
Village : Jhotwara, Dist. Jaipur, State : Rajasthan.
 3. Rekhi Singh s/o Hiralal Chaudhary,
Age : 63 years, Occu. Retired Employee,
R/o. E-256, Taranagar, near Khirni Phatak,
Village : Jhotwara, Dist. Jaipur, State : Rajasthan.
 4. Govind Rekhi Singh Chaudhary,
Age : 29, Occu.
R/o. E-256, Taranagar, near Khirni Phatak,
Village : Jhotwara, Dist. Jaipur, State : Rajasthan.
 5. Mamta Rekhi Singh Chaudhary,
Age : 27, Occu. Private Job
R/o. E-256, Taranagar, near Khirni Phatak,
Village : Jhotwara, Dist. Jaipur,
State : Rajasthan.
- ...Applicants**

Versus

1. The State of Maharashtra
 2. Premlatakumari w/o Kaushal Chaudhary,
Age : 30 years, Occu. Edu.,
R/o. Sainik Nagar, Bhingar, Ahmednagar Camp,
Ahmednagar.
- ...Respondents**

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Mr. Pavan P. Uttarwar, Advocate for the applicants
Mr. M. M. Nerlikar, APP for respondent/State
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**CORAM : SMT. VIBHA KANKANWADI
AND
RAJESH S. PATIL, JJ.**

DATE : SEPTEMBER 13, 2022

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

1] By this application, the applicants invoke the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973, for quashing of the First Information Report No.480/2021 registered with Ahmednagar Camp Police Station, Dist. Ahmednagar, for the offences punishable under Sections 498A, 323, 504, 506 r/w 34 of the Indian Penal Code and the Charge-sheet No. 45/2022 pending before the learned Judicial Magistrate First Class, Court No. 3, Ahmednagar, which culminated into R.C.C. No. 403/2022.

A] **FACTS : -**

2.1] The marriage of informant/respondent no. 2 with applicant no. 1 was solemnized on 22.11.2019 at Shri Balaji Bagh Marriage Garden, Jaipur, as per Hindu rites and rituals. They have no issue from the said wedlock.

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2.2] It is the case of the respondent no. 2 in the First Information Report that, after the marriage of respondent no. 2 with applicant no. 1, she had gone to her matrimonial home in Jhotwara, Rajasthan, for cohabitation and started living with the applicants in a common house. After the marriage, respondent no. 2 was treated well for 15 days and thereafter her husband had started making unlawful demand of Rs. 36.00 lakhs for purchasing a plot and shop and on this count she was harassed and ill-treated by the applicants. Informant tried to convince the applicants that her parents had spent huge amount of money in the marriage ceremony and hence they don't have money. In spite of informing about the financial position of her parents, the applicants continued to harass and ill-treat respondent no. 2 and even she was kept starved. It is further stated in the FIR that, the applicants used to abuse respondent no. 2 and further taunt her parents.

2.3] It is further stated in the FIR that, the applicant no. 1 i.e. husband of respondent no. 2 had threatened the informant that if the monetary demand of Rs. 36.00 was not fulfilled, he would viral her private photographs and thereby defame her. Respondent no. 2, however, tolerated the harassment for a period of one year and adjusted with the applicants. Respondent no. 2 had informed about the said harassment and ill-treatment to her parents and sisters. On 22.05.2021, the applicants had abused and beaten respondent no. 2 and further she was driven out of the house and since then respondent no. 2 has been staying with her parents at Sainik Nagar, Bhingar, Ahmednagar.

2.4] It is further case of respondent no. 2 in the FIR that, when respondent no. 2 realized that the applicants would not allow her to cohabit with applicant no. 1, she approached the Bharosa Cell in Ahmednagar. Said cell directed the applicants to remain present but they did not comply with the order and hence respondent no. 2 was given a letter to lodge report against the applicants with the Police Station. Respondent no. 2 accordingly registered complaint with police stating all her grievances referred to herein above.

3.1] The applicants have stated in the present application that they are the husband, mother-in-law, father-in-law, brother-in-law and sister-in-law, respectively of the respondent no. 2. They are not at all concerned with the allegations levelled against them. They have been arrayed as accused with the sole intent to cause harassment and defame them in the society. The complaint has been filed against the applicants for settling a score with the complainant's husband i.e. applicant no. 1.

3.2] It is further stated in the application that the applicant no. 1 had filed missing complaint with police stating that the respondent no. 2 was not willing to reside with him and used to raise quarrels since marriage and further that the respondent no. 2 had tried to commit suicide and left matrimonial home on 26.12.2020. Applicant no. 1 had brought her back by convincing her; but respondent no. 2 again raised quarrel and left matrimonial

home on 17.05.2021, without informing the applicants. It is further stated that the applicant no. 1 had issued legal notice to respondent no. 2 and the same was replied by respondent no. 2 denying the allegations and making counter allegations. The applicant no. 1 had again sent rejoinder notice to the reply filed by respondent no. 2 denying the allegations and further the applicant no. 1 had shown willingness for settlement. The respondent no. 2 again replied to the rejoinder notice sent by applicant no. 1 and sought restitution.

3.3] It is further stated in the application that the respondent no. 2 filed petition under Section 9 of the Hindu Marriage Act in the Family Court at Ahmednagar, against applicant no. 1 seeking restitution of conjugal rights. The applicant no. 1 filed petition under Section 13 of the Hindu Marriage Act seeking dissolution of marriage before the Family Court at Jaipur on the ground of cruelty and wilful desertion. The respondent no. 2 again filed two petitions; one for maintenance u/s 125 of Cr.P.C. and another under the provisions of Domestic Violence Act. The Investigating Officer has filed charge-sheet, and the proceedings initiated on the basis of same being R.C.C. No. 403/2022 are pending before the JMFC, Ahmednagar.

3.4] Being aggrieved, the applicants have approached this Court seeking quashment of the FIR and the consequent proceedings.

4] Subsequently, the Charge-sheet No. 45/2022 was filed before the learned Judicial Magistrate First Class, Ahmednagar; and the same was culminated into R.C.C. No.403/2022.

B] SUBMISSION OF PARTIES : -

5] Heard learned counsel Mr. Pavan P. Uttarwar for the applicants and learned APP Mr. M. M. Nerlikar for respondent no.1/State.

6] Learned counsel for the applicants submitted that the respondent no. 2 has filed complaint with *mala fide* intention and same is abuse of process of law. The FIR has been filed with the sole intent to harass the applicants. Perusal of the FIR would show falsity of the allegations as, on one hand the respondent no. 2 has filed proceedings for restitution of conjugal rights and on the other she filed FIR making baseless allegations against the applicants. The allegations are vague and do not constitute any offence. The allegations have been made without any material to support and, therefore, same cannot be considered. There is delay in lodging the report, which is unexplained. The contents of the FIR lacks the ingredients of the offences alleged against the applicants.

7] Learned advocate for the applicants further submitted that the Hon'ble Supreme Court in numerous judgments observed that there is growing tendency to file complaints implicating the old aged parents and distant relatives in matrimonial matters to pressurize husband to bring him to terms of the complainant. He
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further submitted that, based on these allegations, the chances of conviction are very bleak. The statements of the relatives of the respondent no. 2 in the charge-sheet are similar. Though the Investigating Officer summoned the applicants, did not record their statements. He further submitted that even if the allegations in FIR and charge-sheet are taken at their face value and accepted in entirety, they do not *prima facie* constitute any offence or make out case against the applicants.

8] Learned APP Mr. M. M. Nerlikar 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 First Information Report and the consequent proceedings.

C] **ANALYSIS :-**

9] Informant/respondent no. 2 has specifically stated in the FIR that the respondent no. 2 and the applicants used to dwell together at the relevant time and all of them have harassed and ill-treated her using foul language. The husband of respondent no. 2 had made an unlawful monetary demand of Rs. 36.00 lakhs from her. Due to non-fulfillment of monetary demand, she was beaten up and driven out of the house. In the said complaint, respondent no. 2 has specifically stated that initially for a period of fifteen days, she was treated with love and affection by her husband and
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the other Applicants and later on she was ill-treated and harassed. When the harassment and ill-treatment became unbearable for respondent no. 2, she lodged First Information Report against all the applicants.

10] On perusal of the First Information Report, it appears that there are specific allegations against the applicants, who are husband, mother-in-law, father-in-law, brother-in-law and sister-in-law respectively of respondent no. 2 and in F.I.R. it is reported that they have played role in harassing and ill-treating the respondent no. 2. The respondent no. 2 and applicants were staying together in common house at the relevant time. The husband of respondent no. 2 used to demand Rs. 36.00 lakhs for purchasing plot and shop and other applicants used to harass and ill-treat her by keeping her starved. Respondent no. 2 was also threatened to defame if the demand of money is not fulfilled. The applicants had also abused, beaten and driven her out of the house and ever since she has been staying with her parents at Ahmednagar. 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 FIR and the proceedings arising therefrom.

11] Thus, taking into consideration the F.I.R. filed by respondent No. 2 about harassment and ill-treatment meted out to her and the seriousness of statements recorded in the First Information Report, we are of the considered 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

[i] Criminal Application stands rejected.

[ii] The observations made herein above are prima facie in nature and confined to the adjudication of the present application only. The Trial Court shall not get influence by the observations made herein above, during the course of trial.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE