

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

CRIMINAL APPLICATION NO. 2452 OF 2022

1. Sangita W/o Kanhoba Tupsagar
Age : 50 Years, Occ. : Political Activist
R/o. House No. 9/1339, Behind LIC Office,
Swimming Pool, Samarth Nagar,
Ambejogai, Dist. Beed.
2. Kanhoba S/o Shankar Tupsagar,
Age : 57 Years, Occ. : Service,
R/o. C-16/4, New T.P.S. Colony,
Parli, Tal. Parli, Dist. Beed.
3. Somnath S/o Sambhaji Bhutawale,
(Father-in-law)
Age : 56 Years, Occu. : Labour,
R/o. Dautpur, Parli Vajinath,
Dist. Beed.
4. Panchshila S/o Somnath Bhutawale
(Mother-in-law)
Age : 50 Years, Occ. : Household,
R/o. As above.

... Applicants.

Versus

1. The State of Maharashtra,
Through
Police Inspector,
Police Station Ahmedpur Dist. Latur,
2. Prerna W/o Bhujang Bhutawale,
Age : 21 Years, Occu. : Household,
R/o. Behind LIC Office, Samarth
Nagar, Ambejogai, Dist. Beed.
At present- Marshivni, Tq. Ahmedpur,
Dist. Latur.

... Respondents

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Mr. Uttam L. Telgaonkar, Advocate for Applicants.
Mr. M. M. Nerlikar, APP for Respondent No.1-State.
Mr. Kedar Sunil Warad, Advocate for Respondent No.2.

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

DATE : 15 DECEMBER 2022.

JUDGEMENT (ABHAY S. WAGHWASE, J.) :

1. All four applicants are praying for quashing crime bearing No.268 of 2022 registered at Ahmedpur Police Station, Dist. Latur for the offences punishable under sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code.

2. Brief facts of the case :

Respondent No.2 herein set law in motion alleging that she was married to Bhujang @ Baby Somnath Bhutawale on 19.09.2021. She has alleged that after marriage, she went to reside with her husband and in-laws, at that time his 'adopted mother', parents-in-law started taunting and commenting on petty counts and beat her, saying that, no furniture was given in the marriage and she was asked to raise Rs.2,00,000/- for construction of house. She has alleged that in the backdrop of such demand she was subjected to physical and mental cruelty and subsequently driven out of house. She claims that she was shocked to see her husband in a compromising

position with 'adopted mother' and she was beaten and threatened on being questioned about it. She has also alleged that she was kept starved. Hence getting fed up of such treatment, she lodged above FIR. Ahmedpur Police Station entertained the above complaint and registered above crime.

It is the above complaint which is now sought to be quashed and set aside by invoking provisions under section 482 of Cr.PC.

3. As to when powers under Section 482 of Cr.PC. 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.***

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

5. Here, it is pertinent to note that at the admission stage, when this Court expressed its disinclination to consider the application and relief as regards to applicant Nos.3 and 4, i.e. parents-in-law, on instructions, learned counsel had already withdrawn application as regards to them.

6. We have carefully examined the FIR filed at the instance of respondent No.2. It appears that informant was married to Bhujang @ Baby Somnath Bhutawale on 19.09.2021. According to her, on 02.10.2021 her

husband, adopted parents Kanhoba Tupsagar and Sangita Kanhoba Tupsagar, parents-in-law Somnath Bhutawale and Panchshila Bhutawale started beating her on petty counts. She has alleged that Sangita, i.e. applicant No.1 taunted for not bringing furniture and expressed displeasure on account of not receiving Rs.2,00,000/- and she was asked to bring the same for construction purpose and finally driven out of the house. According to her, because of jaundice, she went to her parents' house and returned back to her husband's place, that time she saw her husband in compromising position with applicant No.1 and on being questioned, he allegedly threatened her. Hence the complaint.

7. It is pertinent to note that the remaining applicants, i.e. applicant Nos.1 and 2 are said to be **adopted parents** of husband. Therefore, it is obvious that they are not part of family of husband and as such by no stretch of imagination rigors of section 498(A) of IPC can be applied or get attracted against them, i.e. for subjecting informant to physical and mental cruelty. In spite of charge-sheet being filed, there is nothing on record to show that there was any injury on account of alleged beating by applicants including applicant Nos.1 and 2 herein. Therefore, apparently ingredients for attributing section 498(A) and 323 of IPC are conspicuously missing in the FIR, as against applicant Nos.1 and 2.

8. We have also considered the statements recorded by the

Investigating Officer during investigation under section 161 of Cr.PC., however, they are monotonous in nature.

9. As discussed above, present applicant Nos.1 and 2 being not in relation to husband and not being part of his family, FIR is apparently misdirected against them. Allowing prosecution on the strength of such material would definitely amount to abuse of process of law. Resultantly, we are inclined to grant relief as against applicant Nos.1 and 2 only. Hence the following order :

ORDER

- i) The application is partly allowed in terms of prayer clause (B) to the extent of applicant Nos.1 and 2.
- ii) The application is accordingly disposed of.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)