

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

CRIMINAL APPLICATION NO. 2594 OF 2022

1. Ashish Madhukar Pawar,
Age. 30 years, Occ. Service,
R/o. Flat No. A-104, Ojas Society, Baner
Pashan Link Road, Pashan, Pune-411021
2. Madhukar Baburao Pawar,
Age. 50 years, Occ. Labour,
3. Pushpa Madhukar Pawar,
Age. 45 years, Occ. Household,
Applicant Nos. 2 and 3 R/o. Durgapur, Rahuri,
Tq. Rahuri and Dist. Ahmednagar.Applicants
(Orig. Accused)

Versus

1. The State of Maharashtra,
Through Police Station,
Rahuri, Police Station, Rahuri,
Tq. Rahuri, Dist. Ahmednagar.
2. Prajakta Vikram Pawar,
Age. 26 years, Occ. Household,
At present R/o. Prakash Manik Garad,
College Road, Near Korade Hospital,
Rahuri, Tq. Rahuri,
Dist. Ahmednagar.Respondents
(Resp. No. 2 Ori. Complainant)

Advocate for Applicants : Ms. S.G. Sonawane
APP for Respondent No.1 : Mr. S.D. Ghayal

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

DATE : 23.09.2022.

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

1. By the present Application filed under Section 482 of the Code of Criminal Procedure, the applicants who are original accused are praying for quashing of FIR bearing Crime No. 0484/2022 registered with Rahuri Police Station, Rahuri, District Ahmednagar, for the offences punishable under Sections 498-A, 427, 323, 504 of the Indian Penal Code.

A. FACTS :

2.1. In the First Informant Report, which is registered as Crime No. 0484/2022, the Informant/respondent No. 2 has stated that her marriage was solemnized on 18.01.2020 as per Hindu rituals with Vikram Madhukar Pawarthe. As the Informant and Vikram were doing job in one IT company at Pune, the Informant, her husband and all the applicants were residing at Pune. After two to three months, Covid -19 spread over in the city of Pune; work from home was permitted to the employees. Therefore, the informant along with her husband and applicants came at Durgapur, Taluka Rahata, to matrimonial home. The Informant was treated well for three to four months. In the months of August, 2020, Informant's father was ill for that reason she asked her husband to permit her to meet her father but the husband and applicants got annoyed and abused her as well did not allow her to meet her father. As she narrated this incident to her parents, they came to meet her at her matrimonial house, at that time Informant's husband and applicants abused the informant as well as her

parents by saying that she do not know the household work and drive her out of the house. She, therefore, went to her parental house. After one month, by giving understanding to Informant's husband and the applicants; her father dropped her back to her matrimonial house. Thereafter, Informant, her husband and applicant No. 1 went to Pune. After treating her well for two to three months, Informant's husband demanded Rs. 2,50,000/- for paying loan amount of flat purchased by him at Pune. The Informant told that she has only Rs. 50,000/- and she will give that amount to them; but he abused her and beat her by means of fists and blows and told her to bring the amount from her father. Thereafter, in the month of March, 2021, due to illness respondent No. 2 went to her parental home. During that time, her husband used to make phone calls to her, frequently and demand money Rs. 2,50,000/- by abusing her. She told that her father do not have monies and he cannot fulfill their demand. Her husband told her that if the demand was not fulfilled then he will not co-habit with her. In the month of July, 2021, Informant's father, her maternal and paternal uncles gave understanding to her in-laws and sent her to matrimonial house for co-habitation.

2.2. It is further stated that thereafter she was treating well for three months; again her husband and in-laws started ill-treating her. They said that she ought to have do all the household works. So, she was doing job as well as household

work even though her husband and all the applicants used to abuse her on small things, beat her by fists and blows and kept her hungry. Her husband broke her laptop by saying that she do not know the household works and drive her out of the matrimonial house. Many times her parents and relatives tried to convince her husband and the applicants but they refused to co-habit her. In short the Informant stated in FIR that from 18.01.2020 to 06.11.2021, husband of Informant and all the applicants have ill-treated her physically and mentally by demanding her Rs. 2,50,000/- for payment of flat loan, purchased by the husband of informant at Pune. They tortured her by saying that she do not know the household works and beaten her by means of fists, kicks and blows; kept her hungry and driven out her of the matrimonial house.

3. The applicants being the brother-in-law, father-in-law and mother-in-law of Informant, have approached to this Hon'ble Court by way of present criminal application for the quashing of the FIR and further Criminal proceedings.

4. There are vague, unspecific or exaggerated allegations. There is no evidence of any physical or mental harm or injury inflicted upon informant that is likely to cause grave injury or danger to life, limb or health, also evidence as to harassment to the wife to meet unlawful demand for money is necessary to constitute cruelty in criminal law. This is requirement of the offence of cruelty defined under Section

498-A. The applicants submit that the husband was always ready for cohabitation with the Respondent No. 2 but she was not agreed for the same and filed a false complaint against the relatives. Initially, the husband sent a notice for cohabitation to the Respondent No. 2 on dated 28/11/2021 and, thereafter, the respondent No. 2 filed various litigation against the husband and his family with only intent to harass the family of husband. There is no eye-witness in the alleged offence, and no witnesses for incident in which any voluntarily causing hurt to respondent No. 2. Therefore, the ingredients under Section 323 does not attract and also there is no utterance of abusive word in the report lodged by respondent No. 2, therefore, the offence punishable under Section 504 are not established.

B. SUBMISSION OF PARTIES :

5. Heard Ms. S.G. Sonawane for the petitioner, Mr. S.D. Ghayal, learned APP for the respondent No. 1 – State.

6. Learned counsel Ms. Sonawane submits that the husband was always ready for cohabitation with the Respondent No. 2 but she was not agreed for the same and filed a false complaint against the relatives. Initially, the husband sent a notice for cohabitation to the Respondent No. 2 on dated 28/11/2021 and, thereafter, the respondent No. 2 filed various litigation against the husband and his family with only intention to harass the family of husband. The applicant No. 1 is brother-in-law of respondent No. 2 and there is no

specific allegation against him. The applicant No. 1 is no concern with respondent No. 2 and he is doing job in Pune since five years. The applicant Nos. 2 and 3 is father-in-law and mother-in-law of respondent No. 2 and there is no allegation for demand of dowry against them. The applicants never resided together. The respondent No.2 filed a false FIR against them only with a view to harass them.

7. She further submits that there is no eye-witness in the alleged offence, and no witnesses for incident in which any voluntarily causing hurt to respondent No. 2. Therefore, the ingredients under Section 323 does not attract and also there is no utterance of abusive word in the report lodged by respondent No. 2, therefore, the offence punishable under Section 504 are not established. The Applicants are innocent and have not involved in the present crime as is alleged by the Informant in the FIR. No offences as mentioned in the Complaint is made out against the applicants, the allegations are afterthoughts, concocted facts for keeping the law in motion and the same are liable to be quashed under Section 482 of the Code of Criminal Procedure by this Hon'ble Court.

8. Learned APP – Mr. S.D. Ghayal submitted that there was a demand of monies as well as all the accused persons have tortured the respondent No. 2 physically and mentally. Specific allegations have been made against all accused persons in the Criminal Application, hence there is no question of quashing

the FIR against them.

C. ANALYSIS :

9. For quashing the criminal proceedings under Section 482 of the Cr.p.c., we have to see, whether the allegations in the FIR, *prima facie*, establish the ingredients of the offence alleged.

10. Prosecution at the initial stage is asked to be quashed, the test to be applied by the Court is as to whether the uncontroverted allegation as made in the complaint, *prima facie*, establish the case. The Courts have to see whether continuation of the complaint amount to abuse of process of law and whether continuation of the criminal proceedings results in miscarriage of justice or when the Court comes to a conclusion that quashing these proceedings would otherwise serve the ends of justice, then the Court can exercise the power under Section 482 of Cr.p.c. While exercising the power under the Provision, the Courts have to only look at the uncontroverted allegation in the complaint whether, *prima facie*, discloses an offence or not, but it should not convert itself to that of a trial Court and dwell into the disputed questions of fact.

11. Perusal of the FIR would show that Informant has reported that there was ill-treatment meted out to her by her husband and in-laws. Applicants used to abused her on one or

other count and beat her by fists and blows. They kept her hungry and drove her out of the matrimonial house. They demanded Rs. 2,50,000/- for paying loan amount of flat purchased by the husband of Informant. As the demand was not fulfilled, they have tortured her. There are specific allegations made against all the applicants. The FIR is lodged on 10.06.2022 and immediately, thereafter, on 01.08.2022, the present Criminal Application is filed without allowing the police to investigate the crime proceedings.

12. Therefore, taking into consideration the contents of FIR, in our view, this is not a fit case, wherein, we should exercise our discretionary powers under Section 482 of the Code of Criminal Procedure, to quash the FIR as against applicants. The applicants should face the trial. Hence, we pass the following order :

ORDER

- i. Criminal Application stands rejected.
- ii. The observations made herein above are, *prima facie*, in nature and it would have no bearing on the final adjudication of the proceedings.

(RAJESH S. PATIL, J.)

(SMT. VIBHA KANKANWADI, J.)