

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

CRIMINAL APPLICATION NO. 2901 OF 2022

1. Mahesh Babasaheb Sonawane,
Age. 32 years, Occ. Agri/business,
2. Babasaheb Sheshrao Sonawane,
Age. 58 years, Occ. Agri,
3. Pushpa Babasaheb Sonawane,
Age. 55 years, Occ. Household,
4. Ashok Sheshrao Sonawane,
Age. 56 years, Occ. Service,
5. Dilip Sheshrao Sonawane,
Age. 48 years, Occ. Agri,
6. Sampat Sheshrao Sonawane,
Age. 45 years, Occ. Service,
7. Renuka Ashok Sonawane,
Age. 52 years, Occ. Household,
8. Lilabai Dilip Sonawane,
Age. 46 years, Occ. Household,
9. Manisha Sampat Sonawane,
Age. 43 years, Occ. Household,
10. Sainath Gopinath Hulhule,
Age. 39 years, Occ. Household,
11. Kaveri Sainath Hulhule,
Age. 30 years, Occ. Household,

Applicant Nos. 1 to 11 all R/o. Godegaon,
Taluka Newasa, Dist. Ahmednagar.

....Applicants

Versus

1. The State of Maharashtra,
Through Police Station Officer,
Police Station, Sonai,
Tq. Newasa, Dist. Ahmednagar.
2. Jyoti Mahesh Sonawane,
Age. 24 years, Occ. Household,
R/o. Khedale Kajali, Tal. Newasa,
Dist. Ahmednagar.Respondents

Advocate for Applicants : Mr. M.A. Dond
APP for Respondent No.1 : Mr. B.V. Virdhe

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

DATE : 27.09.2022.

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. I-0141/2019 registered at Police Station Sonai, Taluka Newasa, District Ahmednagar, for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

A. FACTS :

2.1. In the First Informant Report, which is registered as Crime No. I-0141/2019, the Informant/respondent No. 2 has stated that her marriage was solemnized on 01.05.2018 as

per Hindu rituals with applicant No. 1. The marriage of respondent No. 2 was done in magnificence by spending Rs. 5,81,000/- and by giving household articles of Rs. 3,00,000/-, 5 tolas gold ornaments and dowry in sum of Rs. 1,11,000/- by her father. Out of the said wedlock, they have one male child who is two and half years old namely Shivraj. Applicant No. 1 runs an agriculture fertilizer shop at Ghodegaon. Applicant Nos. 1 to 9 reside together in one house and applicant Nos. 10 and 11 reside at different place but in same district i.e. Godegaon. After marriage the Informant was treated well for the period of one year. Thereafter, they started ill-treating her. They used to say that they did not like her, she has to do all the household works and if she wants to cohabit with them then she has to bring Rs. 5 Lakhs from her father for purchasing fertilizers. When she shown inability to bring the amount by saying that her parents are poor and they cannot give the said amount, then her husband got annoyed and beat her by means of kicks and fists; all the other accused abused her physically and mentally, kept her hungry and drove her out of the matrimonial house by saying that if she brings monies from her parents for purchasing fertilizers, then only they will allow her to cohabit. They gave her threat that if she does not bring the amount, they will kill her.

2.2. On 24.03.2021, Informant brought Rs. 2 Lakhs to her matrimonial house. Then the applicants treated her well for 15 days and thereafter, again all the applicants started ill-

treating her. On 20.07.2021, applicant No. 1 beat her by means of fists and kicks by demanding remaining amount of Rs. 3 Lakhs, all the applicants have ill-treated her physically and mentally; kept her hungry and drove out her of the matrimonial house by saying that they will allow her to cohabit with them only if she brings remaining amount of Rs. 3 Lakhs. From 20.07.2021, she is staying with her parents. Informant's paternal relatives tried hard to sent her for cohabitation with applicant No. 1 but applicants refused. Thereafter, she approached to Bharosa Cell and after that she lodged the FIR.

3. The applicants have approached to this Hon'ble Court by way of present criminal application for the quashing of the FIR.

4. The applicants are the close relatives of applicant No. 1 who is the husband of respondent No. 2. Applicant Nos. 2 and 3 are the father-in-law and mother-in-law, respectively. Applicant Nos. 4, 5 and 6 are the real brothers of applicant No. 2. Applicant Nos. 7, 8 and 9 are wives of applicant Nos. 4, 5 and 6 respectively. Applicant No. 10 is the husband of applicant No. 11 who is the sister of applicant No. 1.

B. SUBMISSION OF PARTIES :

5. Heard Mr. M.A. Dond for the applicants, Mr. B.V. Virdhe, learned APP for the respondent No. 1 – State.

6. Learned counsel Mr. Dond submitted that the applicants are the aggrieved persons by the tempered nature of the Informant. The alleged incidents of abuse and assault for unlawful demand for money had never happened. The allegations of demand of Rs. 5 Lakhs is absolutely false and incorrect. The applicants have not given any threat to the Informant. The applicant Nos. 4 to 6 are real brothers of applicant No. 2 and applicant Nos. 7 to 9 are the wives of applicant Nos. 4 to 6, respectively; applicant No. 11 is the married sister of applicant No. 1 and applicant No. 10 is the husband of applicant No. 11. It is stated that though they are relatives and belong to the same family, they live separately. The applicant Nos. 4 to 11 are not the family members, as such, they are remotely concerned with the affairs of the family. They did not ill-treat the Informant.

7. He further submitted that the allegations made in the report are not only false and incorrect but are so absurd that, one does not supplement other. The material particulars relating to the alleged ill-treatment and harassment are also lacking. The contents of the FIR do not, *prima facie*, disclose commission of offence under Section 498-A of IPC. The respondent No. 2 has lodged the report only with an ulterior motive to cause harassment of the applicants. The respondent No. 2 has exaggerated the domestic dispute so as to rope maximum number of accused in the case. In view of this, the prosecution is not *bona fide* and, therefore, the FIR deserves

to be quashed and set-aside.

8. Per contra, learned APP – Mr. B.V. Virdhe, submitted that there was a demand of monies as well as all the accused persons have ill-treated the respondent No. 2 physically and mentally; Applicant No. 2 have beaten her and all the applicants abused her, kept her hungry, gave threat to her life and drove her out of the matrimonial house. The respondent No. 2 have given the amount of Rs. 2 Lakhs to the applicants even though they have ill-treated her for remaining unlawful demand of Rs. 3 Lakhs. Specific allegations have been made against all accused persons in the Criminal Application, hence there is no question of quashing the FIR against them and the application may be rejected.

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 shows that the Informant has reported that there was ill-treatment meted out to her by her husband and in-laws. All the applicants were staying at a common place being residence of Godegaon, Taluka Newasa, District Ahmednagar. Applicant No. 1 beat her by means of fist and kicks and other applicants used to ill-treat her. They abused her, kept her hungry and drove her out of the matrimonial house. They demanded Rs. 5 Lakhs for purchasing fertilizers, out of which respondent No. 2 has provided them Rs. 2 Lakhs. Even then, the applicants continued the unlawful demand for remaining amount of Rs. 3 Lakhs. As the demand was not fulfilled, they have tortured her. There are specific allegations made in the FIR against all the applicants. The FIR is lodged on 07.05.2022 and immediately, thereafter, on 23.08.2022, 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. Trial is required to investigate the crime. 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.)