

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

CRIMINAL APPLICATION NO. 2403 OF 2020

**LOKESH S/O DILIP BHELONDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicants : Mr. Arun V. Rakh
APP for Respondent No.1 - State: Mr. R. D. Sanap
Advocate for Respondent No.2 : Mr. T. G. Gaikwad

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

DATED : 28th NOVEMBER 2022

PER COURT :

1. Leave to amend prayer clause. Amendment be carried out forthwith.
2. Present application has been filed invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashment of the FIR as well as the entire proceedings, by way of amendment.
3. Learned advocate for the applicants submits that, on instructions, he is withdrawing the application as against applicant Nos.1 and 2. Applicant No.3 had expired and this fact was informed to this Court when the matter was on board on 11.02.2022, and therefore, the case has abated as against applicant No.3. Learned advocate for the applicants further submits that he is pressing the application only for the reliefs claimed for applicant No.4.

4. The facts of the case those are coming up in the form of FIR as well as the entire charge-sheet would show that applicant No.1 got married with respondent No.2 on 04.05.2017 and she has given all the details which according to her amounts to cruelty. It is also stated that time and again, her father had given amount to applicant No.1. In view of the fact that the present application has been withdrawn in respect of the allegations against applicant nos.1 and 2, we did not reiterate all those allegations.

5. In view of the fact that the matter survives only in respect of applicant No.4, the role assigned to him is required to be considered.

6. On perusal of the FIR as well as the entire charge-sheet which includes the statements of the relatives of respondent No.2, what is emerging is that applicant No.4 was residing with applicant Nos.1 to 3 and it also appears from the documents those have been produced that he had gone to United States of America and a Visa period is 27.07.2018 to 23.07.2023. Even if we consider that he has not given the further details and has not filed the copy of the passport having entries of his departure and the arrival, yet except the fact that he was residing with the other co-accused persons there are no over acts, those are attributed to him. The main allegations are against the husband and parents-in-laws. It would be a futile exercise to ask applicant no.4 to face the trial. The case squarely falls within the parameters those have been laid down in *State Of Haryana and Ors. Vs. Bhajan Lal*, [AIR 1992 SC 604].

7. Hence, we are of the view that the FIR as well as the proceedings need to be quashed and set aside. Hence the following order :-

ORDER

- (i) The application stands allowed as against applicant no.4.
- (ii) FIR vide C.R. No.1436 of 2020 registered with City Police Station, Nandurbar, Taluka and District Nandurbar, for the offences punishable under sections 498-A, 323, 504, 506 read with section 34 of Indian Penal Code and the proceedings initiated on the basis of that FIR bearing R.C.C. No.109 of 2021 pending before the learned Judicial Magistrate First Class, Nandurbar stands quashed and set aside as against applicant No.4 – Ashish Dilip Bhelonde.
- (iii) The application as well as proceedings stand abated in view of the death of applicant No.3 – Dilip Ramchandra Bhelonde.
- (iv) The application stands dismissed as withdrawn as against applicant Nos.1 and 2.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)