

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2955 OF 2021

Dr. Balasaheb s/o Murlidhar Mundhe

.. Applicant

Versus

1. The State of Maharashtra
Through Police Inspector,
Dharur Police Station,
Tq. Dharur, Dist. Beed.

2. Geetabai Shravan Mundhe

.. Respondents

...

Mr. S. R. Kedar, Advocate for applicant.

Mr. S. J. Salgare, APP for respondent No.1 - State.

Mr. N. P. Bangar, Advocate for respondent No.2.

...

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

DATE : DECEMBER 08, 2022.

ORDER :- [Per Smt. Vibha Kankanwadi, J.]

. Present application has been filed by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashing the FIR bearing Crime No.188 of 2021 registered with Dharur Police Station, Dist. Beed on 27.08.2021 for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code (for short "IPC").

2. Heard learned Advocate Mr. S. R. Kedar for the applicant, learned APP Mr. S. J. Salgare for respondent No.1 - State and learned Advocate Mr. N. P. Bangar for respondent No.2.

3. Present applicant is the cousin father-in-law of respondent No.2. It will not be out of place to mention here that the other accused persons are not before this Court. Admittedly the present applicant is residing at a different place, however, the informant appears to have shown that he is residing at Mundewadi. The appointment letter by Rayat Shikshan Sanstha, Satara appointing the applicant as Lecturer on 19.10.2008 and the Joining Report have been produced. He joined his services at Veer Wajekar A.S.C. College, Phunde, Tq. Uran, Dist. Raigad. Thereafter, by order dated 24.06.2009 he was transferred to Karmaveer Bhaurao Patil College, Vashi, Navi Mumbai. He has also produced the joining report of that place. It can be seen from the faculty profile of the applicant which has been produced that he is a well educated person having a repute. The affidavit-in-reply states that the applicant was the main conspirator, who used to instigate the husband of respondent No.2 - informant to harass her. This appears to be a vague statement which is not even specifically contended in the FIR. The FIR states that in all seven persons used to make demand of money. With these kind of allegations, it would be unjust to ask the applicant to

face the trial.

4. Reliance can be placed on the decision in ***Kahkashan Kausar @ Sonam and Ors. Vs. State of Bihar and Ors., Criminal Appeal No.195 of 2022*** decided by the Hon'ble Supreme Court on 08.02.2022, wherein the decisions in ***Rajesh Sharma and Ors. Vs. State of U.P. and Anr., [(2018) 10 SCC 472]***, ***Arnesh Kumar Vs. State of Bihar and Anr., [(2014) 8 SCC 273]***, ***Preeti Gupta and Anr. Vs. State of Jharkhand and Anr., [(2010) 7 SCC 667]***, ***Geeta Mehrotra and Anr. Vs. State of UP and Anr., [(2012) 10 SCC 741]*** and ***K. Subba Rao Vs. The State of Telangana, [(2018) 14 SCC 452]*** have been considered and it has been observed thus :-

"18. The above-mentioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the

husband when no *prima facie* case is made out against them."

5. Taking into consideration the above noted decisions, we are of the opinion that the ingredients of offence punishable under Section 498-A of IPC are not attracted as against the applicant. Therefore, in our view, this is a fit case wherein we should exercise our discretion under Section 482 of the Code of Criminal Procedure to quash and set aside the the FIR as against the applicant. Hence, the following order :-

ORDER

I) Application stands allowed.

II) The FIR bearing Crime No.188 of 2021 dated 27.08.2021 registered with Dharur Police Station, Dist. Beed for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of IPC stands quashed and set aside, as against the applicant.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm