

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

**CRIMINAL APPLICATION NO.3229 OF 2021**

1. Ganesh s/o Govind Kadam
2. Govind s/o Rangnath Kadam
3. Kevalbai w/o Govind Kadam
4. Surekha w/o Madhukar Dhumal  
@ Surekha d/o Govindrao Kadam
5. Manisha w/o Vikas Kale @  
Manisha d/o Govindrao Kadam

**.. Applicants**

**Versus**

1. The State of Maharashtra  
Through Police Inspector,  
Yusuf Wadgaon, Police Station,  
Tq. Kaij, Dist. Beed.

2. Vidya w/o Ganesh Kadam

**.. Respondents**

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Mr. S. G. Kawade, Advocate for applicants.

Mr. S. D. Ghayal, APP for respondent No.1 - State.

Mr. L. H. Kawale h/f Mr. A. R. Dand, Advocate for respondent No.2.

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

**DATE : 21-11-2022**

**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.152 of 2021 registered with Yusuf Wadgaon Police Station, Tq. Kaij, Dist. Beed

06.10.2021 for the offence punishable under Sections 498-A, 323, 504 read with Section 34 of Indian Penal Code as well as the proceedings in R.C.C. No.297 of 2021 pending before the learned Judicial Magistrate First Class, Kaij.

2. Applicant No.1 is the husband of respondent No.2. Applicant Nos.2 is the father-in-law of respondent No.2. Applicant No.3 is the mother-in-law of respondent No.2 and applicant Nos.4 and 5 are the sisters-in-law of respondent No.2. It will not be out of place to mention here that by order dated 24.01.2022, the application in respect of applicant No.1 came to be dismissed.

3. Heard learned Advocate Mr. S. G. Kawade for applicants, learned APP Mr. S. D. Ghayal for respondent No.1 – State and learned Advocate Mr. L. H. Kawale holding for learned Advocate Mr. A. R. Dand for respondent No.2.

4. After hearing learned Advocate for the applicants for sometime, when this Court expressed its disinclination to grant any relief in favour of applicant Nos.2 and 3, learned Advocate for the applicants seeks withdrawal of the application in respect applicant Nos.2 and 3. Hence, the application stands disposed of as withdrawn in respect of applicant Nos.2 and 3. Now, the matter to proceed only for the reliefs claimed by applicant Nos.4 and 5.

5. The informant - respondent No.2 lodged report with Yusuf Wadgaon Police Station, Dist. Beed on 06.10.2021 against the present applicants. It is stated that the marriage of the informant was performed with applicant No.1 on 30.04.2016 at Tatbargaon. Informant states that she was treated properly for about one year by the applicants. Thereafter, they started demanding amount of Rs.3,00,000/- for construction of the house and on that ground they used to assault her and harass her mentally and physically by keeping her starving. It is further stated that thereafter her father had given Rs.1,00,000/- to the applicants for construction of house. After construction of the house, applicants again started harassing her on the ground that the child is not begetting from her and used to say that they don't like her. Thereafter, in the year 2018, applicants again demanded amount of Rs.1,00,000/- for construction of Well and harassed her. In January, 2020, applicants raised suspicion over the character of the informant and they abused her and assaulted her. Thereafter, the husband of the informant drove her out of the house. She then lodged FIR against the present applicants.

6. It is to be noted from the contents of the FIR as well as charge-sheet that respondent Nos.4 and 5, who are the married sisters-in-law, were residing at their respective matrimonial home,

which is at a different place than the matrimonial home of respondent No.2. It is alleged that respondent No.2 was asked to bring amount of Rs.3,00,000/- for construction of the house. For insisting that demand, she was assaulted and harassed mentally and physically by keeping her starving. This can happen only if respondent Nos.4 and 5 would have been residing along with original accused Nos.1 to 3, however, it is not the case of the prosecution also. Same is the case with further allegations that her father had given amount of Rs.1,00,000/- for construction of house. Definitely it would have been given, if at all it is to be accepted, to original accused Nos.1 to 3. It is then stated that since 2018 they were asking more amount for construction of Well and then from January, 2020, they were raising suspicion over her character. No specific overt act is stated against applicant Nos.4 and 5.

7. 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."

8. Taking into consideration the above noted decisions, we are of the opinion that the ingredients of offence punishable under Section 498-A of Indian Penal Code are not attracted as against the applicants. 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 and the proceedings arising therefrom as against the applicant Nos.4 and 5.

Hence, the following order :-

**ORDER**

I) Application stands allowed in respect of applicant Nos.4 and 5 only.

II) Application stands disposed of as withdrawn in respect of applicant Nos.2 and 3.

III) The FIR bearing Crime No.152 of 2021 dated 06.10.2021 registered with Yusuf Wadgaon Police Station, Dist. Beed for the offences punishable under Sections 498-A, 323, 504 read with Section 34 of Indian Penal Code as well as the further proceedings in R.C.C. No.297 of 2021 pending before the learned Judicial Magistrate First Class, Kaij, stands quashed and set aside, as against applicant Nos.4 and 5.

**[ABHAY S. WAGHWASE]**  
**JUDGE**

**[SMT. VIBHA KANKANWADI]**  
**JUDGE**

scm