

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (APL) NO.201 OF 2021

1. Siraj Bali Farooq Bali
Aged 25 years,
Occupation – Business,
R/o. Chandni Chowk, Hathi Pura,
Miskinshah Plot, Amravati,
Ta. & Distt. Amravati – 444601

2. Akila Bali Farooq Bali
Aged 49 years,
Occupation – Housewife,
Chandni Chowk, Hathi Pura,
Miskinshah Plot, Amravati,
Tah. & Distt. Amravati

...APPLICANTS

VERSUS

1. State of Maharashtra,
through its P.S.O. Police Station,
Arvi, Tah. Arvi, Distt. Wardha

2. Kaynat Tabassum Siraj Bali
Aged 24 years, Occupation – Housewife,
Present R/o C/o Shriram Ward,
Arvi, Tah. Arvi, Distt. Wardha.
Permanent Add: Chandni Chowk,
Miskinshah Plot, Amravati,
Tah. & Distt. Amravati

...NON-APPLICANTS

Shri A.A. Dhawas, Advocate for the applicants.
Shri T.A. Mirza, Additional Public Prosecutor for
non-applicant No.1/State.
Shri A.M. Haque, Advocate for non-applicant No.2.

CORAM : ROHIT B. DEO & URMILA JOSHI-PHALKE, JJ.
DATE : OCTOBER 10, 2022.

JUDGMENT (Per Urmila Joshi-Phalke, J.)

ADMIT. Heard finally with the consent of learned Counsel for the parties.

2. In the present criminal application interim relief was granted by an order dated 09/02/2021 by which the proceedings of R.C.C. No.184/2020 pending on the file of Judicial Magistrate First Class, Arvi, District Wardha is stayed until further order.

3. Present application is preferred for quashing of First Information Report registered at Arvi Police Station, District Wardha vide Crime No.138/2020 for the offence punishable under Section 498-A read with Section 34 of the Indian Penal Code and Section 4 of Muslim Women (Protection of Rights on Marriage) Act, 2019.

4. The crime was registered on the basis of report lodged by Kaynat Tabassum Siraj Bali alleging that the applicant No.1 is her husband and applicant No.2 is her mother-in-law. As per her contention the marriage of applicant No.1 and her was solemnized on 28/11/2018. After marriage initially for 3-4 months she was treated well and

thereafter she was ill-treated by demanding Rs.10,00,000/- (Rs. Ten lacs). On non-fulfillment of demand, applicant No.1 started assaulting her. She further alleged that applicant No.2 who is her mother-in-law used to pick up the quarrels with her. On 17/02/2020 she was driven out of the house by demanding money. After she returned at her parents house applicant No.1 declared divorce by uttering Talaq, Talaq, Talaq. Thus, the applicants committed offence punishable under Section 498-A read with Section 34 of the Indian Penal Code and Section 4 of Muslim Women (Protection of Rights on Marriage) Act, 2019.

5. The aforesaid allegations show that main allegations are against non-applicant No.1 i.e. husband and general allegations are made against applicant No.2 i.e. mother-in-law. All allegations levelled against applicant No.2 are vague in nature. It appears that non-applicant No.2 is implicated only because she is residing with applicant No.1. Allowing the proceeding against her to continue will be abuse of process of law. As allegations are vague against applicant No.2, therefore, the power under Section 482 of the Code of Criminal Procedure needs to be used and the proceeding against her needs to be quashed.

6. Applicant No.1 also prayed for quashing of First Information Report which is registered against him. There are specific allegation

against applicant No.1 regarding ill-treatment, demand of money and assaulting on account of non-fulfillment of demand, therefore, we are not inclined to use powers under Section 482 of the Code of Criminal Procedure to quash the proceeding against applicant No.1.

7. In the result, prayer to the extent of applicant No.2 deserves to be allowed. The prayer of applicant No.1 for quashing of First Information Report against him deserves to be rejected. Therefore, we proceed to pass the following order :

(a) The criminal application is partly allowed.

(b) The First Information Report vide Crime No.138/2020 registered against applicant No.2 - Akila Bali Farooq Bali at Arvi Police Station, District Wardha for the offences punishable under Sections 498-A read with Section 34 of the Indian Penal Code and Section 4 of Muslim Women (Protection of Rights on Marriage) Act, 2019 is quashed and set aside.

(c) The First Information Report vide Crime No.138/2020 registered against applicant No.1 - Siraj Bali Farooq Bali at Arvi Police Station, District Wardha for the offences punishable under Section 498-A read with Section 34 of the Indian Penal Code and Section 4 of Muslim

Women (Protection of Rights on Marriage) Act, 2019 is rejected.

(d) The parties to bear their own cost.

8. Rule is made absolute in the aforesaid terms.

(URMILA JOSHI-PHALKE, J.)

(ROHIT B. DEO, J.)

**Divya*