

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

CRIMINAL APPLICATION NO. 57 OF 2022

1. Sanjay Machindra Tonde
(withdrawn vide order dated 24/01/2022)
2. Machindra Kundlik Tonde
Age: 57 years, Occu: Agri.,
R/o Sonimoha, Tq. Dharur,
Dist. Beed
3. Barkubai Machindra Tonde
Age: 55 years, Occu.: Housewife,
R/o As above
4. Anita Rajesh Kande
Age: 31 years, Occu.: Housewife,
R/o Kharewadi, Tq. Majalgaon,
Dist. Beed
5. Surekha Dnyaneswar Lad
Age: 26 years, Occu.: Housewife,
R/o Ladewadgaon, Tq. Kaij,
Dist. Beed

..APPLICANTS

VERSUS

1. State of Maharashtra
Through its Dharur Police Station, Dharur,
Tq. Dharur, Dist. Beed
2. Ranjana Sanjay Tonde
Age: 20 years, Occu.: Household,
R/o Sonimoha, Tq. Dharur, Dist. Beed,
Now R/o Gavandara, Tq. Dharur,
Dist. Beed

..RESPONDENTS

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Mr. S.G. Jadhavar, Advocate for applicants
Mr. P.G. Borade, A.P.P. for respondent no.1 – State
Mr. S.J. Salunke, Advocate for respondent no.2

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**CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.**

DATE : 02nd JANUARY, 2023

PER COURT :

1. The applicants have filed this application under Section 482 of Code of Criminal Procedure for quashing of the F.I.R. bearing C.R. No. 264 of 2021 registered with Dharur Police Station for offences punishable under Sections 498-A, 323 and 504 read with Section 34 of the I.P.C.

2. Heard learned counsel for both sides.

3. The complainant (Respondent No.2) was married to the Applicant No.1 on 08th October, 2019. Applicant Nos.2 and 3 are the parents and Applicant Nos.4 and 5 are the married sisters of Applicant No.1. Respondent No.2 lodged the F.I.R. on 26th November, 2021 alleging that she was subjected to cruelty. It is also alleged that the Applicant No.1 assaulted her under the influence of alcohol. It is also alleged that, the Applicant No.1 coerced her to bring money from her father and subjected her to cruelty for not meeting the demand of dowry. She further states that Applicant Nos.2 to 5 would insult her over trivial issues. She has stated that on 30th November, 2020 Applicant No.1 assaulted her and drew her out of the house for not meeting the demand of dowry and that since then she is residing with her

parents at village Gavandara. Pursuant to the complaint lodged by Respondent No.2, the aforesaid crime came to be registered against the applicants.

4. Having considered the submissions of the learned counsel for the Applicants and Respondents, the question for our consideration is whether the allegations made in the F.I.R., even if taken at face value and accepted in entirety, prima facie constitute offence alleged against the applicants. Before we delve into the nature of allegations made, it would be advantageous to refer to the latest judgment of Apex Court in case of ***Kahkashan Kausar alias Sonam and Others Vs. State of Bihar and Others, (2022) 6 SCC 599***, wherein the Hon'ble Supreme Court has observed that... *"incorporation of Section 498-A of I.P.C. was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid state intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as 498-A I.P.C. as instruments to settle personal scores against the husband and his relatives."* The Apex Court, upon considering the previous judgments relating to quashment of F.I.R. in respect of offence punishable under Section 498-A of the I.P.C. has observed in paragraph no.17 thus,-

“17. ... this Court has at numerous instances expressed concern over the misuse of Section 498-A I.P.C. 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. In instant case, the F.I.R. reveals that the accusations are mainly against the husband i.e. Applicant No.1, who has already withdrawn the application vide order dated 24th January, 2022. So far as Applicant Nos.2 to 5 are concerned, the only accusation against Applicant Nos.2 to 5 is that they had insulted Respondent No.2 on trivial issues. Such allegations do not constitute offence under Section 498-A of the I.P.C. The other allegations against them are general in nature. The F.I.R. does not indicate that they had either demanded dowry or that they had subjected Respondent No.2 to cruelty within the meaning of Section 498-A of the I.P.C.

6. Considering the facts and circumstances of the case, allowing prosecution against them would result in an abuse of process of law. Hence this is a fit case to exercise jurisdiction under Section 482 of Code of Criminal

Procedure and to quash the F.I.R. as against Applicant Nos.2 to 5. Hence, the application is allowed qua Applicant Nos.2 to 5 in terms of prayer clause (B). Consequently the F.I.R. bearing C.R. No. 264 of 2021 registered with Dharur Police Station for offences under Sections 498-A, 323 and 504 read with Section 34 of the I.P.C. against the Applicant Nos. 2 to 5 stands quashed and set aside.

(R.M. JOSHI, J.)
SSD

(SMT. ANUJA PRABHUDESSAI, J.)