

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO.71 OF 2022

- 1) Navinkumar Pandarsingh Thakur.
- 2) Kaushalyabai Pandarsingh Thakur.
- 3) Nagendrakumar @ Nagendrsingh Pandarsingh Thakur.
- 4) Vasvi @ Priyanka W/o Nagendrasingh Thakur.
- 5) Girija Santoshsingh Thakur.
- 6) Santoshsingh Mohansinh Thakur (Byas).
- 7) Shiva @ Shankarsingh S/o Amratsinh Chandel.
- 8) Geeta W/o Shiva @ Shankarsinh Chandel. **... Applicants**

Versus

- 1) The State of Maharashtra.
- 2) Shital W/o Navinkumar Thakur. **... Respondents**

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Mr. Santosh C. Bhosle, Advocate for Applicants.
Mr. R. V. Dasalkar, APP for Respondent No.1 / State.
Mr. Ashutosh Sisodiya, Advocate for Respondent No.2. (Appointed).

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**CORAM : R. G. AVACHAT and
SANJAY A. DESHMUKH, JJ.**

DATE : 31st July, 2023.

ORDER: (Per Sanjay A. Deshmukh, J.)

1 Heard the learned advocates for the respective parties.

2 This is an application, under Section 482 of the Code of Criminal Procedure, 1973, for quashment of FIR No.267 of 2021 dated 27th November, 2021 and consequential charge-sheet in R.C.C. No.32 of 2022, pending in the Court of learned Judicial Magistrate First Class, Himayatnagar, District Nanded, for the offences punishable under Sections 498-A, 324, 323, 343, 354, 294, 506 and 109 read with 34 of the Indian Penal Code, 1860.

3 The learned counsel for the applicants states that the application of applicant No.1 has already been withdrawn. Today, he also, on instructions, withdraws the application of applicant Nos.2 to 4.

4 The informant / respondent No.2 averred in the FIR that she married with Navinkumar Thakur (co-accused) on 13th June, 2021. After marriage, she went for cohabitation with her husband at Mudhole, Taluka Mudhole, District Nirmal (Telangana). Initially, she was treated well for one month. Thereafter, she saw that her husband was talking with an unknown woman in filthy language on video call. When she questioned him, he said that he can do what he wants and why she is asking so? She was beaten and pushed from the bed. She sustained injuries. From the evening of that incident, her husband started to give her tablets having no name or description. She felt giddiness and restlessness. When she asked her husband, he said that these are

the tablets by which you can have a power. She again suffered because of that tablets mentally and felt more restlessness. Thereafter, her mother-in-law, brother-in-law Narendrasingh and his wife Vasvi were also feeding her those tablets. They attempted to make her fool. She, therefore, refused to consume those tablets. She was beaten by wooden log and kept in a dark room for five days. That time, her sister-in-law Girija and her husband Santosh as well as father-in-law came there. Therefore, she was taken out from that room. That time, her mother-in-law threatened her that if she discloses that fact to anybody, she will be eliminated. Therefore, she remained silent.

5 The informant further averred in the FIR that when she tried to tell that fact to applicant No.6 Santosh (husband of the sister-in-law), he started to touch her body parts. He was looking towards her with ill-eye. Therefore, she went away from there. She told that fact to her sister-in-law Girija (applicant No.5). Girija beaten the informant by holding her hairs and made allegations against the informant that she is a woman of bad character. Girija slapped and beaten the informant and said that the informant is making false allegations against her husband Santosh (applicant No.6).

6 On that night, applicant No.1 shown the informant

obscene and dirty video and he was compelling her to perform sexual intercourse like that. The informant refused to perform accordingly, as she was having pains. Therefore, he beaten her. She became ill.

7 It is further averred in the FIR that the mother-in-law of the informant was compelling her to do all the household chores. The mother-in-law was blaming the informant that nothing was given in her marriage. The applicants were demanding Rs.5,00,000/- for purchasing a plot for *Bidi* factory. She tried to convince them that her father had spent a lot of money in her marriage and within 1 and ½ months, that amount cannot be paid. That time, her husband beaten her. She told that fact to her brother Kalyansinh. Therefore, her brother sold two acres of agricultural land and paid Rs.5,00,000/- to the husband and in-laws of the informant and requested them not to harass the informant.

8 Thereafter, after fifteen days, applicant Nos.6 and 7 each demanded Rs.2,00,000/- to her husband and said him that if that amount is not with him, he may demand it from his father-in-law. Her husband demanded that amount to the informant. That time, all the applicants beaten the informant and expelled her from the house. She immediately called her brother Kalyansinh and came to her parental house at Himayatnagar.

9 After eight days, on 11th November, 2021 at 01:00 pm, applicant Nos.6 and 7 on the instigation of applicant No.1, came to her parental house. They abused her parents and brother in the filthy language. They also beaten them by fist and kick blows. They said that they are not simple persons. Nobody can do anything with them. They are having relations with Ministers. They threatened that they will kill us. That time, applicant No.7 Shiva said that he is a corporator of Shiv Sena. We are in power. We can save ourselves. They threatened that they will kill us and therefore, the informant and her family were under their fear.

10 On 12th November, 2021 at about 07:00 pm, the informant made a phone call to applicant No.7 by phone No.7420842084. That time, the informant talked with applicant No.7 and his wife Geeta (applicant No.8) and tried to convince them. They both said that they will not took her back for cohabitation. They told the informant to commit suicide. They instigated the informant. Therefore, the informant consumed poison. She was admitted in the hospital at Himayatnagar. Thereafter, she was admitted in Vision Hospital, Nanded. She was discharged from hospital on 23rd November, 2021. However, till 27th November, 2021, she could not regain her health. Therefore, she lodged the FIR on 27th November, 2021.

11 The learned counsel for the applicants submitted that all the allegations in the FIR are omnibus in nature. There is no *prima-facie* corroborative evidence to support these allegations. For only about 2 to 3 months, the informant cohabited with applicant No.1 at Mudhole, Taluka Mudhole, District Nirmal (Telangana). She was not willing to cohabit with her husband. She on her own left the house of her husband and lodged false report. He lastly prayed to allow the application by quashing the FIR and charge-sheet, as there is not *prima-facie* material against the applicants.

12 The learned APP for the State and the learned counsel for the informant strongly objected the application. They submitted that the FIR itself is sufficient to establish the ingredients of Section 498-A, 354, 294 etc. of IPC. There is discharge card of the informant showing that she was admitted in the hospital on 12th October, 2021 for consumption of poison. They submitted that there is material evidence against the applicants. They, therefore, prayed to reject the application.

13 Perused the charge-sheet. There is no evidence of sale-deed to show that the brother of the informant sold the agricultural land and paid Rs.5,00,000/- to the husband of the informant. There is no evidence of phone call details to show that the informant made phone

call from mobile No.7420842084 by which applicant Nos.7 and 8 abetted her to commit suicide and therefore, she consumed the poison. There is no any report of the alleged incidents prior to lodging of the disputed FIR. No doubt there are statements of the relatives of the informant, however, the FIR and those statements are not sufficient to establish the cruelty as contemplated under Section 498-A of IPC. Thus, there is no strong *prima-facie* evidence against applicant Nos.5 to 8. In such situation, compelling applicant Nos.5 to 8 to face the trial would be an abuse of process of Court, as there is no *prima-facie* material against them. Considering all these aspects, the arguments of the learned APP for the State and the learned counsel for the informant are not acceptable in this regard. Thus, the application deserves to be allowed to the extent of applicant Nos.5 to 8. Hence, the following order:-

ORDER

- I. The application of applicant Nos.1 to 4 stands disposed of as withdrawn.
- II. The application is allowed in terms of prayer clauses (B) and (B-1), to the extent of applicant Nos.5 to 8 only.
- III. The fees of the appointed counsel is quantified at Rs.10,000/-, (Rupees Ten Thousand Only) to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

IV. No costs.

14 The observations made herein-above are *prima-facie* in nature. The Trial Court shall not get influenced by the same.

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[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]