

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

955 CRIMINAL APPLICATION NO.123 OF 2023

1. Raju Shantaram Mali (Gopal) **-withdrawn**
2. Bablabai Shantaram Mali (Gopal) **-withdrawn**
3. Anita Rameshwar Gopal (Bhongad)
4. Rameshwar Sahebrao Gopal (Bhongad)

..Applicants

versus

1. The State of Maharashtra
2. Sau. Mangalabai W/o Raju Mali

..Respondents

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Advocate for Applicants : Mr.Sonar Anudeep D.

APP for Respondent/State : Mr. A.R. Kale

Advocate for Respondent No.2 : Mr.Shaikh Mohammad Naseer A.

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**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 7th JULY, 2023.**

PER COURT :-

1. Heard.
2. This is an application for quashment of proceeding in R.C.C. No.950 of 2022 pending before the Judicial Magistrate, First Class, Jalgaon, District Jalgaon in pursuance to the FIR/C.R. No.0560 of 2022 registered with MIDC Police Station, Jalgaon, District Jalgaon, for the offences punishable under section 498-A read with 34 of the Indian Penal Code.

3. Gist of the prosecution case is as under :-

Respondent - wife married co-accused Raju in December, 2016. The couple was blessed with baby girl in November, 2017. Thereafter, the husband, his mother (co-accused), his sister-applicant no.3 started illtreating her. They would allege her to be an inauspicious lady. It has further been averred that mother-in-law and applicant no.3 herein had asked respondent-wife to fetch money from her parents. The husband would make demand of Rs.50,000/- for purchase of Rickshaw. Respondent-wife, therefore, in November, 2018 called her parents. She therefore went back to her parental house, at Jalgaon.

4. The learned advocate for the respondent-wife would submit that there are averments in the FIR suggesting the sister-in-law and her mother had asked respondent-wife to fetch money from her parents. According to him, statements of the neighbours are on the same lines. These statements reinforce the allegations in the FIR. According to him, prima facie case to proceed against the applicants is thus made out. He, therefore, urged for rejection of the application. The learned APP reiterate the same submissions.

5. We have closely perused the FIR and related police papers. The applicant no.3 (sister-in-law) had married even before the

marriage of the respondent-wife. Her matrimonial home is at Kannad and she has been serving in police department in Dhule. Although there are averments in the FIR that sister-in-law (applicant no.3 herein) and her mother had asked the respondent-wife to fetch money, the FIR and statements of the witnesses are conspicuously silent to state date, time and year of the said incident. The said should have been reflected in the FIR since admittedly the applicant no.3-sister-in-law had got married before the marriage of the respondent-wife and was residing at her matrimonial home. In such circumstances, it needs to be observed that FIR and police papers so far as regards the present applicants are concerned do not contain clear and unambiguous allegations to make them stand the trial. Directing the applicants to face prosecution in the given circumstances would be an abuse of process of Court.

6. In the result, the application is allowed in terms of prayer clause "B" to the extent of applicant nos.3 and 4.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

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