

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

CRIMINAL APPLICATION NO.362 OF 2023

- 1) Prateek Subhash Patil.
 - 2) Subhash Ganpat Patil.
 - 3) Asha Subhash Patil.
 - 4) Pratiksha Subhash Patil.
- ... Applicants

Versus

- 1) The State of Maharashtra.
 - 2) Priyanka Pratik Patil.
- ... Respondents

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Mr. Nasimoddin R. Shaikh & Ms. Jameela Damani, Advocate for Applicants.

Mr. P. N. Kutti, APP for Respondent No.1 / State.

Mr. Yogesh H. Jadhav, Advocate for Respondent No.2.

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

DATE : 08th November, 2023.

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

1 Heard the learned advocates for the respective parties.

2 This application is filed under Section 482 of the Code of Criminal Procedure, 1973, for quashment of FIR and the consequential charge-sheet in RCC No.137 of 2023, pending in the Court of learned Judicial Magistrate First Class, Jalgaon, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860.

3 The learned counsel for the applicants, on instructions, withdraws the application of applicant No.1/husband of the respondent/informant.

4 The informant averred in the FIR that she married with applicant No.1 on 11th May, 2013. Thereafter, she continuously cohabited till January, 2017. Meanwhile, she was treated with cruelty by beating and threatening to kill her by the applicants. She was slapped. Since she could not beget child, she was harassed on that count also. Therefore, she left the matrimonial home in January, 2017 and started to reside with her parents. She lodged the report on 27th September, 2022. Applicant No.2 and 3 are the parents-in-law and applicant No.4 is the sister-in-law.

5 The learned counsel for applicants submitted that the informant has left the matrimonial home in January, 2017 and FIR is lodged on 27th September, 2022. Thus, the report is barred by limitation. He is relying on the authority of ***Arun Vyas and another Vs. Anita Vyas, (1999) 4 Supreme Court Cases 690***, in which it is held that in the absence of explanation more three years delay caused for lodging report, the complaint is barred by limitation.

6 The learned counsel for the applicants pointed out that

applicant No.1 filed application for restitution of conjugal rights, which was dismissed. Thereafter, applicant No.1 filed application for declaring for nullity of marriage. He submitted that there is no specific incident pointing out alleged incident of cruelty on the part of the applicants. He prayed to allow the application.

7 The learned APP for the State and the learned counsel for informant strongly opposed the application. They submitted that there are specific allegations against the applicants that they treated the informant with cruelty. The names of the applicants are mentioned in the FIR. There is *prima-facie* evidence against the applicants. They lastly prayed to reject the application.

8 Perused the charge-sheet. The FIR itself shows that the informant left the matrimonial house in January, 2017 and FIR is lodged on 27th September, 2022. Thus, the FIR lodged after three years is barred by limitation, as per the judgment in case Section 468 of Cr.P.C. as held in the case of ***Arun Vyas and another Vs. Anita Vyas*** (supra), cited by the learned counsel for applicants. Considering this aspect of limitation and other litigation between the informant and applicant No.1, there is no *prima-facie* evidence of cruelty on the part of applicant Nos.2 to 4 to proceed against them. It would be abuse of the process of Court. The application, therefore, deserves to be

allowed to the extent of applicant Nos.2 to 4. The application is, therefore, allowed in terms of prayer clause (a), to the extent of applicant Nos.2 to 4 only. The application of applicant No.1 stands disposed of as withdrawn. No costs.

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[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]