

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1006 CRIMINAL APPLICATION NO.436 OF 2023

1. Sandeep s/o Bhagwat Magar
 2. Pratibha w/o Sandeep Magar
- ...Applicants

versus

1. The State of Maharashtra
 2. Aparna w/o Swapnil Magar
- ...Respondents

...

Advocate for Applicants : Mr. Datta A. Madake

APP for Respondent No.1: Mr. N.T. Bhagat

Advocate for Respondent No.2 : Mr. Yashwant P. Jadhav

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**CORAM : R. G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 11th JULY, 2023.**

PER COURT :-

1. Heard.
2. This application has been filed under Section 482 of Cr.P.C. for quashment of the F.I.R. No. 378 of 2022, registered with Anandnagar police station, Osmanabad, district Osmanabad, for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. and the consequential charge sheet bearing R.C.C. No. 65 of 2023 pending in the Court of Judicial Magistrate, First Class, Osmanabad.
3. What can be gathered from the F.I.R. and the relevant police

papers is that the respondent/wife married co-accused-Swapnil in December 2015. Since the marriage, she started residing at her matrimonial home. Meanwhile, her husband got a job in Pune. Thereafter, he lost his job. The parents in law, present applicants and other in laws started harassing the respondent/wife alleging her to be an inauspicious lady. Thereafter, she conceived, but underwent abortion. Thereafter, again the parents in law started ill-treating her, as she did not conceive thereafter. They wanted to perform second marriage of their son. Those were the days of Covid-19 pandemic. Because of the ill-treatment meted out to respondent wife by the husband, parents in law and the present applicants, she developed blood pressure and diabetics. Thereafter, she was turned out of matrimonial home and not brought back. She therefore, preferred an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005.

4. On the same lines are the statements of the relations of the respondent/informant. The learned advocate for the respondent wife adverted our attention to the medical papers suggesting her to have developed diabetic and even to have become B.P. patient. According to him, ailments were suffered by her due to the ill-treatment and harassment meted out to her by all the in-laws. Therefore, explanation II of Section 498A of I.P.C. does get invoked.

5. We have considered the submissions advanced. The

applicant No.1 is step brother-in-law of the respondent/wife and applicant No.2 is the wife of applicant No.1. We find it illogical to imagine that applicant No.2 would harass and ill-treat her co-sister. Admittedly, applicant No.1 has been staying away from matrimonial home of the respondent wife, since 2006. True, according to the learned advocate, he used to visit on holidays and ill-treat the respondent wife. Close reading of the F.I.R. and the related papers would indicate that no specific incident and the manner in which the applicants have allegedly ill-treated the respondent wife have been highlighted. In such circumstances, directing the applicants to stand trial would be an abuse of process of Court. Hence, we are inclined to allow the application. The application therefore, is allowed in terms of prayer clauses "B" and "D-1".

(SANJAY A. DESHMUKH, J.)

(R. G. AVACHAT, J.)

rlj/