

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

CRIMINAL APPLICATION NO. 452 OF 2022

1. Sultankha Musakha Pathan
Age: 35 years, Occu.: Labour,
R/o Jamb (Bk.), Tq. Mukhed,
Dist. Nanded
At present at Pahuni Pada,
Tq. Wada, Dist. Palghar
2. Musakha Majidkhan Pathan
Age: 60 years, Occu.: Labour,
R/o Malwani Church, Malad (West),
Mumbai
3. Goribee Musakha Pathan
Age: 55 years, Occu.: Household,
R/o As above
4. Ajijkha Musakha Pathan
Age: 30 years, Occu.: Labour,
R/o Jamb (Bk.), Tq. Mukhed,
Dist. Nanded
5. Tasleem Irfan Shaikh
Age: 32 years, Occu.: Household,
R/o New Bharat School Road,
Navi Basti, Kalyan Road, Bhivandi,
Tq. Bhivandi, Dist. Thane

..APPLICANTS

VERSUS

1. State of Maharashtra
Through Police Station Mukhed,
Tq. Mukhed, Dist. Nanded
2. Yasmeen Sultankha Pathan
Age: 30 years, Occu.: Household,
R/o Jamb (Bk.), Tq. Mukhed,
Dist. Nanded

..RESPONDENTS

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Mr. A.G. Vasmatkar, Advocate h/f Mr. U.B. Bilolikar, Advocate for applicants
Mr. S.D. Ghayal, A.P.P. for respondent no.1 – State
Mr. I.D. Maniyar, 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. With consent of learned counsel for the parties, heard finally at the stage of admission.
2. This is an application under Section 482 of Code of Criminal Procedure for quashing F.I.R., bearing Crime No. 16 of 2022 registered on 12th January, 2022 with Mukhed Police Station for the offences punishable under Sections 498-A, 323 and 504 read with Section 34 of the I.P.C. and R.C.C. No. 30 of 2022, registered pursuant to filing of the charge-sheet.
3. The aforesaid crime was registered pursuant to the F.I.R. lodged by Respondent No.2. Perusal of the F.I.R. reveals that Respondent No.2 was married to Respondent No.1 in the year 2010. She has two daughters from the said wedlock. Applicant Nos. 2 and 3 are the parents, Applicant No.4 is the brother and Applicant No.5 is the married sister of the Applicant No.1. Respondent No.2 has alleged that since her marriage, the applicants mocked and insulted her by making critical comments about her looks She was also

ill-treated for not bringing Rs.4 lakhs from her parents for purchase of plot. She has alleged that Applicant No.1 had assaulted and subjected her to physical and mental cruelty for not meeting the demand of dowry.

4. On going through the F.I.R., we are of the view that omnibus allegations made by Respondent No.2 against the applicants do not constitute offence under Section 498A of the I.P.C. It is pertinent to note that Applicant No.1 and Respondent No.2 were married in 2010. It is alleged that she was being ill-treated and harassed since the time of her marriage. The complaint in regard to physical and mental ill-treatment was lodged only in the year 2020. The F.I.R. does not contain any specific allegations against the applicants indicating that they had demanded dowry or that they had subjected Respondent No.2 to cruelty for not meeting the unlawful demands.

5. In the latest judgment in ***Kahkashan Kausar alias Sonam and Others Vs. State of Bihar and Others, (2022) 6 SCC 599***, after considering the previous decisions on the issue relating to quashment of F.I.R. in respect of offence punishable under Section 498-A of the I.P.C., the Apex Court 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.”

6. The present case is fully covered by the said decision. The F.I.R. as well as the other material collected in the course of investigation, even if taken as true, the same does not constitute an offence qua the applicants. In such circumstances, continuance of proceeding would be an abuse of process of law.

7. Under the circumstances, criminal application is allowed in terms of prayer clause (B) and (C1). Consequently, F.I.R., bearing Crime No. 16 of 2022 registered at Mukhed Police Station and R.C.C. No. 30 of 2022 pending on the file of J.M.F.C., Mukhed, stand quashed.

(R.M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

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