

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

CRIMINAL APPLICATION NO. 311 OF 2021

1. Mrs. Jayashree Maruti Gadiwadda
2. Mr. Maruti Durgappa Gadiwadda
3. Mrs. Sonali Nitin Mudgal
4. Mr. Nitin Raghunath Mudgal ... Applicants/Accused

Versus

. State of Maharashtra and Anr. ... Respondents

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Mr. P. D. Jarare, Advocate for the Applicants
Mr. A. M. Phule, APP for Respondent No.1/State
Advocate for Respondent No.2: Mr. Shaikh Mazhar Jahagirdar

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**CORAM : SMT. VIBHA KANKANWADI, J.
AND
S. G. CHAPALGAONKAR, J.**

DATE : 28.06.2023

PER COURT :

1. The present application has been filed invoking inherent powers of this Court under Section 482 of the Criminal Procedure Code, 1973 [hereinafter referred to as 'Cr.PC' for short] for getting the FIR vide Crime No.2246/2020 registered with Shrirampur City Police Station, Taluka Shrirampur, District Ahmednagar quash and set aside, which came to be registered for the offences punishable under Sections 323, 498-A, 504 and 506 of the Indian Penal Code [hereinafter referred to as 'IPC' for short].

2. The applicants before this Court are the mother-in-law, father-in-law, sister-in-law and husband of sister-in-law of respondent no.2 –

informant. During pendency of the application, investigation is completed and charge-sheet has been filed before the 2nd Civil Judge, Junior Division and Judicial Magistrate First Class, Shrirampur vide RCC No.322/2021 and therefore, the amendment was sought and applicants have prayed for quashment of the entire proceedings also.

3. Heard the learned Advocate appearing for the applicants, learned APP appearing for respondent no.1 and the learned Advocate for respondent no.2.

4. Perusal of FIR would show that, the informant got married to original accused no.1 – Suraj on 20/12/2015. She has contended that at the time of marriage, dowry was given and the marriage expenses were borne by her father. The entire ceremony was done as per the expectation of the accused persons. She further states that for about a month, she was treated properly. But thereafter, she makes allegations as against applicant nos.1 and 2 i.e. mother-in-law and father-in-law as they were insisting that whatever has been given in marriage is not as per their honour. Even the accused no.1 used to harass physically and mentally. As regards accused nos.3 and 4 are concerned, she states that she was driven out of the house in 2016 by original accused no.1 and applicant nos.1 and 2 and at that time, they had asked her to bring a car and 40 tolas of Gold. She then states that for a year, she resided at her parents house and none of the accused had come to fetch her back. In the meantime, she become ill, for which, she took treatment at Shrirampur and thereafter, when she recovered, then her father had taken her to her matrimonial home. She was not allowed to reside there saying that she is ill. It was then suggested that she should be given an adjacent room. On that condition, she had taken the room by the side of the matrimonial home but then she says that her husband and parents in

law used to abuse and assault her whenever she used to ask for money for domestic expenses. She then states that, when her father had given amount of Rs.5,00,000/- in cash, the in-laws took her in the house. Thereafter, she become pregnant. She was admitted to hospital due to illness and even at that time, she was harassed mentally and physically. She delivered a female child and thereafter, the harassment was on the count that they wanted a baby boy however the girl is born. She, thereafter, says that the in-laws, her husband and sister-in-law used to harass by abusing and assaulting on that count. She was again driven out of house along with a girl on 23/06/2020 by saying that she should bring amount. When in-laws and the husband were tried to be persuaded at that time it was told that the husband wants divorce.

5. The charge-sheet would show that the statements of parents of informant and her relatives have been recorded and those statements are stereotype.

6. Taking into consideration the material that has been collected it is certain that there are allegations against the parents i.e. present applicant nos.1 and 2 and therefore, we are of the opinion that no case is made out for quashing the FIR and when disinclination is shown, the learned Advocate for the applicants seeks withdrawal of the application as against applicant nos.1 and 2.

7. As regards applicant nos.3 and 4 are concerned, admittedly, they are residing separately. Because in the FIR, there is no statement that they were also residing in the same house where the husband and the parents in laws were residing.

8. The period for which the informant was at Shrirampur i.e. for about a year will have to be considered as the period when she was not harassed and if we consider the period prior to that, no specific role is attributed to the applicant nos.3 and 4 which can amount to causing mental or physical harassment as regards the subsequent period, which starts around 2017. The role attributed to applicant nos.3 and 4 is concerned, there is no allegations that she was making illegal demand of the amount. It is stated that she used to abuse and assault on the count that the informant has given birth to a female child. In fact, when the parents are there, the sister may not indulge in the matrimonial life of the brother to the extent that a female child has been born but the desire was of the boy. The allegations against the applicant nos.3 and 4 are vague and therefore, the case is made to quash the FIR as well as the entire proceedings against them. Hence, the following order:

ORDER

- (i) Application stands partly allowed.
- (ii) The FIR vide Crime No.2246/2020 registered with Shrirampur City Police Station, Taluka Shrirampur, District Ahmednagar against applicant nos.3 and 4 for the offences punishable under Sections 323, 498-A, 504 and 506 of IPC as well as RCC No.322/2021 pending before 2nd Civil Judge, Junior Division and Judicial Magistrate First Class, Shrirampur stands quashed and set aside as against applicant nos.3 and 4.
- (iii) The application stands withdrawn as against applicant nos.1 and 2 on the basis of statement made by the learned Advocate representing them.
- (iv) It is clarified that the observations made shall not affect the merits of the case.

(S. G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)