

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

CRIMINAL APPLICATION NO.330 OF 2021

1. Siddharth s/o Panditrao Jadhav,
Age 35 years, Occu. Service,
R/o Government Quarters,
Rural Hospital, Bhoom, Tq. Bhoom,
District Osmanabad

**(Deleted with permission of
Hon'ble Court vide order dated 04/01/2023)**

2. Panditrao s/o Bhimrao Jadhav,
Age 65 years, Occu. Pensioner,
R/o Ashoknagar, Basmathnagar,
District Hingoli
3. Sagrabai w/o Panditrao Jadhav,
Age 58 years, Occu. Household,
R/o as above
4. Vaibhav s/o Panditrao Jadhav,
Age 26 years, Occu. Education,
At present R/o Near Hanuman Temple,
Labour Colony, Nanded,
Tq. & District Nanded
5. Anand s/o Panditrao Jadhav,
Age 35 years, Occu. Service,
R/o as above.
6. Poonam w/o Anandrao Jadhav,
Age 28 years, Occu. Household,
R/o as above.
7. Vaishali w/o Topaji Salwe,
Age 37 years, Occu. Service,
R/o as above.
8. Topaji s/o Pandurang Salwe,
Age 38 years, Occu. Business,
R/o as above.

... **APPLICANTS**

VERSUS

1. The State of Maharashtra
(through Police Station, Aundha (N),
Tq. Aundha (N), District Hingoli
Copy to be served on Public Prosecutor,
High Court, Bench at Aurangabad)
2. Kavita w/o Siddharth Jadhav,
Age 23 years, Occu. Household,
At present R/o Anjanwada,
Tq. Aundha Nagnath,
District Hingoli

... **RESPONDENTS**

.....
Mr. S.S. Panale, Advocate holding for
Mr. S.P. Katneshwarkar, Advocate for applicants
Mr. P.G. Borade, A.P.P. for respondent No.1 – State
Mr. S.K. Chavan, Advocate for respondent No.2.
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**CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.**

DATE : 4th JANUARY, 2023

P.C. :

With the consent of learned counsel for rival parties, heard finally at the stage of admission.

2. At the outset, learned counsel for the applicants states that, the applicant No.1 Siddharth Panditrao Jadhav expired during the pendency of this Criminal Application. He, therefore, seeks leave to delete name of applicant No.1. Leave granted. Cause title be amended forthwith.

3. This is an application filed under Section 482 of

the Code of Criminal Procedure, for quashing the First Information Report No.230/2020, dated 16/10/2020, registered with Aundha (N) Police Station, District Hingoli for the offences punishable under Sections 498(A), 323, 504, 506 read with Section 34 of the Indian Penal Code and consequential criminal proceedings being R.C.C. No.83/2021, pending before the learned Judicial Magistrate, First Class, Aundha (N), District Hingoli.

4. Heard learned counsel for the applicants, learned A.P.P. for respondent No.1 – State and learned counsel for respondent No.2. We have perused the record and considered the submissions advanced by learned counsel for the parties.

5. Having considered the submissions of the learned counsel for the applicants and respondents, the question for our consideration is whether the allegations made in the F.I.R., even if taken at face value and accepted in entirety, prima facie constitute offence alleged against the applicants. Before we delve into the nature of allegations made, it would be advantageous to refer to the latest judgment of Hon'ble Apex Court in case of Kahkashan Kausar alias Sonam and Others Vs. State of Bihar and Others, (2022) 6 SCC 599, wherein the Hon'ble Apex Court has observed that...

"incorporation of Section 498-A of I.P.C. was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid state intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as 498-A I.P.C. as instruments to settle personal scores against the husband and his relatives". The Hon'ble Apex Court, upon considering the previous judgments relating to quashment of F.I.R. in respect of offence punishable under Section 498-A of the I.P.C. 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. Reverting to the facts of the case, the crime against the applicants has been registered pursuant to the First Information Report lodged by the respondent No.2. She was married to applicant No.1 Siddharth Jadhav, who expired during the pendency of this application. The applicants No.2 and 3 are the parents, the applicants No.4, 5 and 8 are the brothers and applicant No.7 is the married sister of the deceased Siddharth Jadhav. The applicant No.6 is the wife of applicant No.5 and applicant No.8 is husband of applicant No.7.

7. The marriage of respondent No.2 and the deceased Siddharth Jadhav was solemnized on 18/5/2017. Respondent No.2 has alleged that, her husband and his family members treated her well for some time, but soon thereafter the applicants started making critical comments about her looks. They abused her and subjected her to mental cruelty. She had lodged a complaint against her husband and his family members, pursuant to which Crime No.99/2018 for the offences punishable under Sections 323, 325 read with Section 34 of the Indian Penal Code was registered. In July 2018 she had also filed an application under Section 156(3) of the Code of Criminal Procedure for registering offence against

the applicants for offence under Section 498-A of the Indian Penal Code.

8. The dispute between the parties was settled and the respondent No.2 and her husband started residing separately at Osmanabad. The respondent No.2 has further stated that, her husband treated her well for some while, but later, coerced her to get Rs.5 Lakhs from her parents to purchase a car. She stated that, her husband assaulted her and subjected her to physical and mental cruelty for not meeting the unlawful demand. The respondent No.2 has alleged that, these applicants had instigated her husband to assault her.

9. A perusal of the First Information Report and the other records reveal that the allegations of cruelty within the meaning of Section 498(A) of the Indian Penal Code are mainly against the husband i.e. deceased Siddharth Jadhav. The only allegation against these applicants is that these applicants had instigated the deceased Siddharth Jadhav. The First Informant Report reveals that the respondent No.2 and her husband were residing separately at Osmanabad. Apart from the omnibus allegations that these applicants had instigated the deceased applicant No.1, there are no specific

allegations against these applicants.

10. Having gone through the First Information Report and the other records, we are of the view that the accusations levelled against these applicants do not constitute offence under Sections 498(A), 323, 504, 506 read with Section 34 of the Indian Penal Code. In such circumstances, allowing the proceedings to continue against these applicants will be sheer abuse of process of law.

11. Hence, the Criminal Application is allowed in terms of prayer clauses (B) and (F). Consequently, the First Information Report No.230/2020, dated 16/10/2020, registered with Aundha (N) Police Station, District Hingoli for the offences punishable under Sections 498(A), 323, 504, 506 read with Section 34 of the Indian Penal Code and consequential criminal proceedings being R.C.C. No.83/2021, pending before the learned Judicial Magistrate, First Class, Aundha (N), District Hingoli stand quashed.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

fmp/-