

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

CRIMINAL APPLICATION NO.781 OF 2023

Rekhabai w/o Dashrath Gaikwad & ors. ... APPLICANTS

VERSUS

The State of Maharashtra & anr. ... RESPONDENTS

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Mr. G.G. Suryawanshi, Advocate for applicants
Mr. S.N. Morampalle, A.P.P. for respondent No.1.
Mr. Neeraj P. Chudiwal, Advocate for respondent No.2.
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**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.**

DATE : 12th SEPTEMBER, 2023

ORDER :

Heard. This is an application for quashment of the First Information Report (F.I.R.) bearing No.0015/2023, registered with Vimantal Police Station, Nanded for the offences punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code and the consequential criminal proceedings bearing R.C.C. No.446/2023.

2. Pending the application, the husband of respondent No.2 passed away. The mother-in-law of respondent No.2 is not

before us. What can be gathered from the F.I.R. and the police papers is that, the respondent No.2 married the deceased way back in 2003. The respondent No.2 was blessed with two children who are now grown up. The respondent No.2 has been serving as a Nurse with a private hospital. In 2020, her mother was afflicted with Covid-19. The respondent No.2, therefore, had paid her Rs.1 Lakh. After having realised the same, her husband started asking her to get back the said amount from her mother. He would also suspect her character.

The present applicants are alleged to have had instigated the husband of respondent No.2 to ill-treat her.

3. It is further alleged in the F.I.R. that, on 28/12/2022, the respondent No.2 was about to set out of the house for her work place. Her husband started abusing her over her character. He confined her in one of the rooms and threatened her to detain her the same way until she brings Rs.1 Lakh back from her mother.

4. Learned counsel for the applicants would submit that, the F.I.R. is silent to indicate any overt act of alleged ill-treatment by any of the applicants. According to him, the statements of witnesses and particularly the daughter of the respondent No.2 is a replica of the F.I.R. According to him, the respondent No.2 – wife was staying away from her husband and in-laws in a house

standing in the name of her deceased husband. The applicants had no occasion to visit her premises and to ill-treat her. According to the learned counsel, as such, the allegations in the F.I.R. are general, vague and omnibus. He, therefore, urged for granting the application.

5. The learned A.P.P. and learned counsel appointed to represent the responded No.2 would, on the other hand, submit that, the F.I.R. is replete with the allegations of ill-treatment. Statement of the daughter has also been adverted to so as to reinforce the averments in the F.I.R. Learned counsel for the respondent No.2 relies on the following authorities to ultimately urge for rejection of the application.

- (1) Chayabai Sahebrao Hiwale Vs. State of Maharashtra 2017 (2) ABR (Cri) 748
- (2) Pankaj Vinod Deshpande Vs. State of Maharashtra AIR Online 2018 Bom 402
- (3) Meera Vs. State by the Inspector of Police, Thiruvotriyur Police Station, Chennai (AIR 2022 SC (Criminal) 285
- (4) Naresh s/o Keshaorao Ganar Vs. State of Maharashtra Criminal Appeal No.128/2016, decided on 3/10/2016
- (5) Shafi Liyakat Kazi & ors. Vs. The State of Maharashtra & anr. Criminal Writ Petition No.5067/2019, decided on 15/7/2022

6. Learned counsel for the respondent No.2 even took us through the observations in case of Naresh Ganar (supra), wherein it has been observed that the allegations over character of a

woman is no less than an offence of cruelty. The same shall not be tolerated.

7. Considered the submissions advanced. Perused the F.I.R. and the related police papers. Also gone through all the authorities relied on.

8. A difference of facts herein and there makes a precedent inapplicable. One has, therefore, to go by the facts of each case first. After having 19 years of happy married life, the respondent No.2 has lodged the F.I.R. She is blessed with two grown-up children. She was admittedly serving as a Nurse with a private hospital. Her husband (deceased) started suspecting her character. In pandemic Covid-19, she had paid Rs.1 Lakh to her mother as her mother was afflicted by Corona. Having realised the same, her husband started asking her to get back the amount. The mother-in-law is not before us. The applicants before us are two sisters-in-law, brothers-in-law, wife of one of the brothers-in-law and even two nieces. Close reading of the F.I.R. would indicate that, the incident dated 20/12/2022 has exclusively been attributed to the deceased husband. As such, we find no specific allegations against any of the applicants, suggesting as to when and why they allegedly ill-treated the respondent No.2. It is reiterated that, the statement of daughter of respondent No.2 is on the lines of the averments in the F.I.R. Directing the applicants to stand trial, based

on such material, would be an abuse of process of Court. The application is, therefore, allowed in terms of prayer clauses (B) and (B-1).

9. The applicants shall deposit amount of Rs.12,000/- (Rupees twelve thousand) with this Court towards fees of Mr. Niraj P. Chudiwal, learned counsel appointed for the respondent no.2. Once the amount is deposited, the same be paid to Mr. Niraj P. Chudiwal, learned counsel.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

fmp/-