

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1021 OF 2022

- 1] Shubham S/o Subhash Jadhav (**Dismissed**)
2] Subhash S/o Rambhau Jadhav
3] Jyoti W/o Subhash Jadhav
4] Prachi D/o Subhash Jadhav
5] Gajanan S/o Baburao Waghlawale .. Applicants

Versus

- 1] The State of Maharashtra
2] Ashwini W/o Subham Jadhav .. Respondents

...
Mr. P.A. Bharat, Advocate h/f. Mr. D.M. Pingale, Advocate for applicants
Mr. S.D. Ghayal, APP for the respondent – State
Ms. Aarti Bhagwat h/f. Mr. G.K. Kshirsagar, Advocate for the respondent no. 2
Application is dismissed as withdrawn against applicant no. 1
vide Court's order dated 30-03-2022
...

**CORAM : MANGESH S. PATIL &
ABHAY S. WAGHWASE, JJ.**

DATE : 10 APRIL 2023

ORDER (MANGESH S. PATIL, J.) :

Heard.

2. The applicants are seeking quashment of crime no. 60 of 2022 registered with Pundliknagar Police Station, Aurangabad, Tq. and Dist. Aurangabad for the offences punishable under section 498A, 323, 504 r/w. 34 of the Indian Penal Code as well as the chargesheet no. 51

of 2022 dated 11-04-2022 submitted before the Judicial Magistrate First Class at Aurangabad.

3. We have heard both the sides and perused the papers.

4. The application to the extent of the applicant no. 1 was dismissed as withdrawn by the order dated 30-03-2022.

5. After hearing both the sides, when we express our disinclination to grant any relief to the applicants no. 2 and 3 who are the parents in law of the respondent no.2, their learned advocate seeks leave to withdraw application even to their extent.

6. We are now concerned with the prayer only in respect of the applicants no. 4 and 5 who happen to be unmarried sister in law of the respondent no. 2 and the maternal uncle of husband.

7. There are plentiful decisions of the Supreme Court laying down the parameters to be taken note of whenever a prayer is made for quashment of the crime registered at the instance of a married woman complaining about the ill-treatment meted out to her by the husband and his relatives which offence is punishable under section 498A of the Indian Penal Code. This Court will have to obviate any harassment to the relatives of the husband against whom allegations are levelled for involvement in subjecting such married woman to cruelty. Any abuse of the process of law needs to be prevented.

Suffice for the purpose to simply make a reference to the decision in *Kahkashan Kausar @ Sonam and others Vs. State of Bihar and others*; (2022) 6 SCC 599. Pertinently, many earlier decisions on the point have been considered by the Supreme Court.

8. The allegations in the FIR which are in *verbatim* same in the statement of the witnesses recorded under section 161 of the Code of Criminal Procedure mention about the marriage between applicant no. 1 and respondent no. 2 having taken place on 20-11-2019. For initial period she was maintained properly. After 02-02-2020, all the applicants started taunting her for petty reasons and started demanding an amount of Rs.15,00,000/- for construction of the house. On these counts, she was subjected to physical and mental ill-treatment. When she was pregnant her husband beaten her with fists and kicks and even stated that he was not willing to have a child. It is then alleged that on 10-06-2020 she was sent to her parents and, thereafter she delivered a girl on 09-09-2020. It is alleged that the applicant no. 1 husband even was reluctant to accept the daughter and abused the respondent no. 2 and left the hospital. It is therefore quite apparent that the alleged ill-treatment even according to the respondent no. 2 was meted out between 02-02-2020 and 10-06-2020 i.e. barely for four months.

9. The applicant no. 4 – unmarried sister of the applicant no. 1 – husband is barely of 19 years and is taking education and must have been residing under the same roof when the respondent no. 2 was at the matrimonial home. It was expected that if the applicant no. 4 was cohabiting with the respondent no. 2 for these four months, the latter would have been more specific and precise in attributing some role to the former. The FIR and the statement of witnesses are as vague and omnibus as it could be. As far as the role attributable to applicant no. 4, we have to read the allegations as covering even the applicant no. 4 if we have to appreciate the statements in the FIR and the statement of the witnesses that all the applicants were demanding money and had ill-treated her.

10. Similarly, applicant no. 5 happens to be the maternal uncle of the applicant no. 1 – husband and has not been residing at the matrimonial home of the respondent no. 2. Considering the short tenure for which the respondent no. 2 resided at the matrimonial home coupled with the vague and omnibus allegations, merely because the FIR refers him that does not prevent us from taking a view different than the one taken by the Supreme Court in the matter of *Kahkashan Kausar* (supra).

11. In our considered view, the applicants no. 4 and 5 are being roped in without sufficient basis and allegations. It would be an

exercise in futility if they are made to face the prosecution. It is the abuse of the process of law. Following the parameters laid down by the Supreme Court in the matter of *State of Haryana and others Vs. Ch. Bhajan Lal and others*; AIR 1992 SC 604, crime and chargesheet to their extent deserves to be quashed and set aside.

12. Application is allowed.

13. Crime no. 60 of 2022 registered with Pundliknagar Police Station, Aurangabad, Tq. and Dist. Aurangabad for the offences punishable under section 498A, 323, 504 r/w. 34 of the Indian Penal Code as well as the chargesheet no. 51 of 2022 dated 11-04-2022 submitted before the Judicial Magistrate First Class at Aurangabad to the extent of applicants no. 4 and 5 is quashed and set aside.

14. Application to the extent of applicants no. 2 and 3 is dismissed as withdrawn.

[ABHAY S. WAGHWASE]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/