

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

CRIMINAL APPLICATION NO. 1162 OF 2022

1. Ajay Shantilal Visave
Age: 30 years, Occu.: Unemployed,
2. Shantilal Rajaram Visave
Age: 61 years, Occu: Retired,
3. Mandakini Shantilal Visave
Age: 58 years, Occu.: Household,

All R/o A-3, Apna Ghar,
Near Sawta Mali Garden, Kate Galli,
Dwarka Chowk, Nashik, Dist. Nashik
4. Monali Parag Sonawane
Age: 35 years, Occu: Private Service,
R/o B-14, Harmony Estate, Bankar Chowk,
Shankar Nana Nagar, Nashik,
Dist. Nashik
5. Parag Anil Sonawane
Age: 38 years, Occu.: Private Service,
R/o B-14, Harmony Estate, Bankar Chowk,
Shankar Nana Nagar, Nashik,
Dist. Nashik
6. Ramanlal Beniram Shirsath
Age: 76 years, Occu.: Nil,
R/o Sai Yash Apartment,
Near Meher Dham Stop, Peth Road,
Nashik, Dist. Nashik
7. Swati @ Vidya Kishor Devghare
Age: 34 years, Occu.: Household,
R/o Kalik Park, Surekhratna Bunglow,
Trimurti Chowk, Nashik,
Dist. Nashik

..APPLICANTS

VERSUS

1. State of Maharashtra
Through it's Bhandgaon Police Station,
Tq. Bhadgaon, Dist. Jalgaon

2. Bhagyashri Ajay Visave
Age: 26 years, Occu.: Household,
R/o Kasar Galli, Tq. Bhadgaon,
Dist. Jalgaon

..RESPONDENTS

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Mr. H.P. Randhir, Advocate for applicants

Mrs. V.N. Patil-Jadhav, A.P.P. for respondent no.1 – State

Mr. R.P.Savale, Advocate h/f Mr. A.S. Shivpute, Advocate for respondent no.2

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**CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.**

DATE : 24th FEBRUARY, 2023

PER COURT :

1. At the outset, learned counsel for the applicants seeks leave to amend the cause title and leave to withdraw the application on behalf of Applicant No.1.

2. Leave granted. Criminal application stands disposed of as withdrawn as against the Applicant No.1. Amendment to be carried out forthwith.

3. With consent of learned counsel for the applicants, learned A.P.P. and learned counsel for the Respondent No.2, heard finally at the stage of admission.

4. This is an application under Section 482 of Code of Criminal Procedure to quash the F.I.R. bearing C.R. No. 21 of 2022 registered with Bhadgaon Police Station, Dist. Jalgaon and consequent Charge-sheet No. 28 of 2022 and R.C.C. No. 43 of 2022 pending on the file of J.M.F.C., Bhadgaon for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

5. Learned counsel for the Applicant Nos.2 to 7 states that the F.I.R. as well as the other material which forms part of the charge-sheet, does not disclose any cognizable offence against these applicants. He states that apart from the omnibus allegations made against these applicants, there is nothing on record to prove that they have subjected the Respondent No.2 to cruelty. Therefore subjecting these applicants to face criminal trial would be an abuse of the process of law.

6. Learned A.P.P. and learned counsel for Respondent No.2 state that the Applicant No.4, who is the married sister-in-law of the Respondent No.2, resides in the near vicinity. Applicant No.1 was suspecting the character of the Respondent No.2 and subjected her to cruelty on the instigation of Applicant No.4.

7. We have perused the records and considered the submissions advanced by learned counsel for the respective parties. The only question for

our consideration is whether the F.I.R. and other material on record collected during the course of investigation, which forms part of the charge-sheet, discloses any cognizable offence against these applicants.

8. The records reveal that the marriage of Applicant No.1 and Respondent No.2 was solemnized on 12th February, 2020. She left her matrimonial home on 06th June, 2020. The records further indicate that the Applicant No.1 had issued a legal notice to the Respondent No.2 on 14th October, 2021 informing her that he would initiate divorce proceeding. Subsequently, on 18th January, 2022, the Respondent No.2 lodged the F.I.R. alleging that the Applicant No.1 treated her well for eight days of her marriage and thereafter he started harassing her and suspecting her character. She has made omnibus allegations against her parents-in-law, sisters-in-law and their spouses and uncle-in-law that they had demanded dowry of Rs.2 lakhs and that they too had subjected her to physical and mental cruelty for not meeting the said unlawful demand. Apart from these omnibus allegations, there is absolutely no allegation against these applicants to indicate that these applicants were involved in subjecting the Respondent No.2 to physical and mental cruelty within the meaning of Section 498-A IPC.

9. The records reveal that there is marital discord between the Respondent No. 2 and her husband and her husband was suspecting the character of the Respondent No.2. The Respondent No.2 has roped in all the

relatives of the Applicant No.1 in this marital discord. In this regard, it would be relevant to refer to the decision of the Hon'ble Supreme Court in *Kahakashan Kausar alias Sonam and Others Vs. State of Bihar and Others, (2022) 6 SCC 599*, wherein the Supreme Court has referred to the previous decision in case of *Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273*, wherein it is observed that though Section 498-A I.P.C. was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives, the said section is used as a weapon rather than shield. It is held that the simplest way to harass is to get the husband and his relatives arrested under this provision. The Supreme Court has further observed that there is increased tendency of implicating the relatives of the husband in matrimonial dispute without analyzing the long-term ramifications of a trial on the complainant as well as the accused. It is held that false implications 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. The Hon'ble Supreme Court 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.

10. The present case is one of such instances where the entire family of the husband has been roped in a matrimonial dispute without there being any material against them to show their involvement in the offence in question.

Under such circumstances, compelling these applicants to face criminal trial would be a sheer abuse of the process of Court.

11. In the result, criminal application is allowed in terms of prayer clause (B), qua the Applicant Nos.2 to 7. Consequently, the F.I.R. bearing C.R. No. 21 of 2022 registered with Bhadgaon Police Station, Dist. Jalgaon and consequent Charge-sheet No. 28 of 2022 and R.C.C. No. 43 of 2022 pending on the file of J.M.F.C., Bhadgaon for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, stand quashed qua Applicant Nos.2 to 7.

(R.M. JOSHI, J.)

SSD

(SMT. ANUJA PRABHUDESSAI, J.)