

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

CRIMINAL APPLICATION NO.1335 OF 2022

- 1] Bhagwat S/o Dyandeo Kute
Age 30 years, Occ – labour,
R/o Sharda Colony, Near Jawahar School,
Jintur, Tq. Jintur, Dist. Parbhani
- 2] Dyandeo S/o Gangaram Kute
Age 68 years, Occ – Agril.,
R/o Sharda Colony, Near Jawahar School,
Jintur, Tq. Jintur, Dist. Parbhani.
- 3] Ratnamalabai W/o Dyandeo Kute
Age 55 years Occ – Household,
R/o Sharda Colony, Near Jawahar School,
Jintur, Tq. Jintur, Dist. Parbhani
- 4] Meerabai S/o Gangadhar Gutthe
Age : 27 years, Occ – Household,
R/o B/T-2, Palacia De Santhana Godino,
St. Jaoquim Road, Vidya Nagar,
Margao, Goa.
- 5] Sonali S/o Prabhakar Nagare
Age 31 years, Occ – Household,
R/o S No.32, Katraj Kondhwa Road,
Mahadev Nagar, Near Mahadev Temple,
Shelar Frams, Pune City, Pune-411 046.
- 6] Sindhubai Tanaji Kande
Age 32 years, Occ – Household,
R/o Flat No.401, Ashapuram.
S.No.78/2, Dangat Industrial estate,
Pune City, Pune.

..Applicants
(Original Accused]

VERSUS

- 1] The State of Maharashtra
Through Police Station Officer,
Hatta police station, Dist. Hingoli

- 2] Durgeshwari W/o Bhagwat Kute
Age 26 years, Occ – household,
R/o at present Jawalabazar, Hatta,
Hingoli, Tq. & Dist. Hingoli.

..Respondents

...
Mr. M.D. Narwadkar, Advocate for Applicants
Mr. V.S. Badakh – APP for Respondent No.1
Mr. V. M. Jaware, Advocate for Respondent No.2

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**CORAM : MANGESH S. PATIL &
M.M. SATHAYE, JJ.**

DATE : 14 March 2023

ORDER (Per M.M. SATHAYE, J.) :

. This is an application under section 482 of Criminal Procedure Code, seeking quashment of FIR No.258 of 2021 registered with Hatta Police Station, Dist. Hingoli, which is subsequently converted to Regular Criminal Case No.126 of 2022 pending on the file of the Judicial Magistrate, First Class, Aundha Nagnath, for the offences punishable under sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

2. After hearing the matter for some time at the outset, when we expressed our disinclination to grant any relief on merits to Applicant nos.1 to 3 (husband and parents-in-law of Respondent

no.2 – informant), learned counsel appearing for Applicants, on instructions, sought permission to withdraw the Application to the extent of Applicant nos.1 to 3. The Application is therefore, dismissed as withdrawn to the extent of Applicant nos.1 to 3. Applicant nos.4 to 6 are sisters-in-law of Respondent no.2 – informant, who are now pressing the Application.

3. Learned counsel for the Applicants submitted that even according to FIR, the allegation in respect of Applicant nos.4 to 6 are vague and in fact no specific role, much less, of any ill-treatment or cruelty or demand of dowry is made out so far as they are concerned. It is submitted that on such vague allegations, the present Applicants cannot be permitted to be prosecuted under law. He further submitted that Applicant no.6 (Mrs. Kande) is not even real sister of husband of Respondent No.2 but she is maternal sister (मावस बहीण) of husband of Respondent no.2.

4. Learned counsel for Respondent no.2 – informant and learned APP, on the other hand submitted that the allegations in the FIR are sufficient to attribute specific role to the Applicants including sisters-in-law and from the statements of witnesses

recorded during the investigation, sufficient material is gathered to further prosecute and prove the alleged crime against all Applicants including sisters-in-law.

5. We have carefully considered the submissions of both sides and perused the record. Perusal of the FIR shows that apart from one vague instance about Applicant no.6 that she tried to impress upon Respondent no.2 that she is bound to deliver girl child, no other allegation is made, much less any allegations about demand of dowry or any other cruelty or harassment. So far as Applicant nos.4 and 5 are concerned, their names are simply taken conjointly with husband and parents-in-law and it is vaguely stated that at their instigation, the husband has resorted to beating Respondent no.2.

6. Perusal of the statements of the witnesses recorded during investigation show that all the statements are based on hearsay, as narrated by Respondent no.2 and they are identical in nature so far as Applicant nos.4 to 6 (sisters-in-law) are concerned.

7. The husband and parents-in-law are not before us and

they have already withdrawn the application. The only relevant allegation about physical cruelty and demand of money for purchase of car, are made against the husband and parents-in-law, and therefore, reiteration of this allegations in the statements of witnesses have no bearing for decision of this application so far as Applicant nos.4 to 6 are concerned.

8. The law regarding prosecution of the distant relatives in such cases is quite crystallized and succinctly stated by Hon'ble Apex Court in ***Preeti Gupta and another Vs. State of Jharkhand and another AIR 2010 SC 3363, Geeta Mehrotra and another Vs. State of U.P.; 2021 SCC OnLine SC 1251*** and latest in the case of ***Kahkashan Kausar @ Sonam and others Vs. State of Bihar and others; (2022) 6 SCC 599***. In the facts and circumstances of this case, in our considered view, material collected by Investing Officer does not demonstrate specific role of Applicant Nos. 4 to 6 in commission of alleged crime. It will be abuse of process of Court, if the Applicant Nos. 4 to 6 are permitted to be prosecuted any further. According to us, this case squarely falls in one of the categories provided under the case of ***State of Haryana and others Vs. Ch. Bhajan Lal and others; AIR 1992 SC 604***.

9. In that view of the matter, we allow the application partly and quash and set aside R.C.C. No.126 of 2022 pending in the Court of Judicial Magistrate First Class, Aundha Nagnath in connection with FIR No.258 of 2021 registered at Hatta Police Station, District Hingoli, for the offences punishable under sections 498A, 323, 504, 506 and 34 of the IPC, to the extent of Applicant Nos. 4 to 6 only.

(M.M. SATHAYE)
JUDGE

(MANGESH S. PATIL)
JUDGE