

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

CRIMINAL APPLICATION NO.1356 OF 2023

Ranjit s/o. Arjun Takpire
and others

..Applicants

Vs.

The State of Maharashtra
and anr.

..Respondents

Mr.D.A.Madake, Advocate for applicants
Mrs.V.N.Patil-Jadhav, APP for respondent no.1
Mr.N.R.Shaikh, Advocate for respondent no.2

**CORAM : R.G.AVACHAT AND
KISHORE C. SANT, JJ.
DATE : OCTOBER 31, 2023**

ORDER :-

By this application, the applicants pray for quashment of the FIR, being Crime No.88 of 2023, registered with Anand Nagar Police Station, Osmanabad, for the offences punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of Indian Penal Code, Charge Sheet No.84 of 2023 and the consequential proceedings of R.C.C. No.236 of 2023, pending in the court of Judicial Magistrate, First Class, Osmanabad.

2. What can be gathered from the FIR and the police papers is that respondent no.2 (wife) married the accused Vishal on 26.12.2020. On marriage, she started residing with him at Mumbai, since he was serving with Mumbai Municipal Corporation. Within a few months, she conceived. She was brought back to her parental house for delivery. On 16.05.2022, there was naming ceremony of the new-born. All the applicants, the co-accused – Vishal and his parents had been to Osmanabad to attend the same. On the same day, all of them, including the applicants, allegedly, asked her parents to pay Rs.10 Lakhs for purchase of a house. It has further been averred that all of them assaulted respondent no.2. It has further been alleged that demand for iPhone (mobile handset) was also made. Since the demand was not met, the husband harassed and illtreated respondent no.2 at his house in Mumbai. Her parents, therefore, brought her back to Osmanabad. She lodged report with Bharosa Cell on 25.06.2022. A settlement was worked out at Bharosa Cell. Respondent no.2 resumed cohabitation.

3. It has further been averred that thereafter, respondent no.2 and her husband again started residing at Byculla, Mumbai. She was treated well for some days. The husband, thereafter,

started asking her to fetch Rs.10 Lakhs from her parents as a condition to allow her to cohabit with him. The incident dated 17.02.2023 has been narrated in the FIR. It has been alleged that the husband and his parents picked up quarrel over a petty issue at 12.00 in the midnight. She was assaulted, beaten up and thereafter, turned out of the matrimonial home after having been relieved of her Mangalsutra and cell-phone. She informed the said incident to her parents and approached Agnipada Police Station, Mumbai. Her father came and brought her back to Osmanabad.

4. Based on the aforesaid averments, crime was registered. On investigation, charge sheet has been filed.

5. Learned counsel for the applicants would submit that the husband and his parents are not before this court. Two married sisters-in-law along with their respective husbands and one brother-in-law and his wife are the applicants in this application. According to him, the FIR is conspicuously silent to attribute overt-acts or illtreatment by any of the applicants. According to him, the application to Bharosa cell is silent to make mention of the incident dated 17.02.2023. He would further submit that based on vague, omnibus and general allegations, if the applicants are asked to stand

trial, it would be an abuse of the process of Court. He, therefore, urged for allowing the application.

6. Learned APP and learned counsel for respondent no.2 would, on the other hand, submit that the FIR is replete with the allegations, making out ingredients of offence under Section 498-A of Indian Penal Code against one and all named in the FIR. Our attention has been drawn to the affidavit-in-reply filed by respondent no.2 and copy of the complaint lodged by her to Police Superintendent. Admittedly, those documents do not form part of the charge sheet. If we compare the allegations therein with the averments in the FIR, there is gross inconsistency. In the report to the Bharosa Cell, averments were made about the illtreatment. The fact, however, is that the matter was, thereafter, compromised and respondent no.2 resumed cohabitation. Same indicates she had waived her allegations.

7. The FIR mainly pertains to the incident dated 17.02.2023, wherein the husband and his parents-in-law have been involved. None of the applicants in this application are alleged to have assaulted and abused respondent no.2 on 17.02.2023. Admittedly, all the applicants are staying far away from the matrimonial home of respondent-wife.

8. It is reiterated that the averments against the applicants herein are general, vague and omnibus. They were not involved in the incident dated 17.02.2023. Although they were alleged to have assaulted and beaten up respondent no.2 on 16.05.2022, said incident does not figure in the complaint to the Superintendent of Police. Even if we accept the said incident as it is, it appears that respondent no.2 had waived the same, since, post that incident, she had resumed cohabitation and continued to stay with her husband at Mumbai. Thereafter, the incident dated 17.02.2023 took place, which has been specifically highlighted in the FIR. Since the present applicants have not been involved in the incident dated 17.02.2023 and rest of the allegations against them are general, vague and omnibus in nature, we are inclined to allow this application.

9. In the result, the application is allowed in terms of prayer clauses (A) and (C).

10. Fee of learned counsel appointed to represent respondent no.2 is quantified at Rs.12,000/- (Rupees Twelve Thousand), to be paid by High Court Legal Services Sub-Committee, Aurangabad.

[KISHORE C. SANT, J.]

[R.G. AVACHAT, J.]

KBP