

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

CRIMINAL APPLICATION NO. 1695 OF 2022

1. Dattatraya Babasaheb Jadhav Patil
2. Shahabai Babasaheb Jadhav Patil
3. Mahadeo Babasaheb Jadhav Patil
4. Shivkanya Mahadeo Jadhav Patil
5. Survanta @ Sushma Ganesh Kale
6. Uma Kailash Shinde
7. Swati Vinod Choudhari
8. Kailash Ramchandra Shinde

..APPLICANTS

VERSUS

1. State of Maharashtra
2. Manjusha Dattatraya Jadhav

..RESPONDENTS

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Mr. S.P. Dhobale, Advocate for applicants
Mr. A.R. Kale, A.P.P. for respondent no.1 – State
Mr. V.B. Deshmukh, Advocate for respondent no.2

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**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ
DATE : 23rd JUNE, 2023**

PER COURT :

1. The record indicates that on the basis of very F.I.R., the informant has also filed a complaint wherein the trial Court has even issued process against whom the F.I.R. has already been registered on the same set of facts. In view of the same, to permit the applicants to take exception to Criminal

Miscellaneous Application No. 481 of 2020 filed by Respondent No.2 – informant, leave to amend.

2. Learned counsel for the applicants seeks withdrawal of application for Applicant Nos. 1 and 2.

3. Heard.

4. This application has been filed taking exception to the F.I.R., being Crime No. 342 of 2021 registered with Washi Police Station, Dist. Osmanabad for the offences punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code, consequential Charge-sheet No. 75 of 2022 and Criminal Miscellaneous Application No. 481 of 2020.

5. Pending this application it was realised that the informant has also filed a complaint against the applicants herein for the very offences. Learned Magistrate took cognizance thereof and even recorded evidence before framing charge. As such, it appears that the applicants are being prosecuted in police case and on complaint as well for one and the same allegations.

6. Learned counsel for the informant and learned A.P.P. would submit that the allegations in the F.I.R. and even complaint as well prima

facie make out a case to proceed against the applicants. Both took us through the F.I.R. and complaint as well. According to them, some details of the alleged ill-treatment have been narrated therein. They would further submit that no mini trial can be held here. The trial Court would decide the matter on it's own merits on framing of the charge. Both of them, therefore, urged for dismissal of the application.

7. Case of the prosecution, as is disclosed from the F.I.R. and the complaint as well, suggests that the informant married Applicant No.1 – Dattatraya way back in June 2015. After marriage, she started residing at her matrimonial home in Lanjeshwar, Tq. Bhoom, Dist. Osmanabad. Averments in the F.I.R. suggest that the husband runs a medical store in Pune. The informant started residing alongwith him in Pune. Meaning thereby her parents and other in-laws were not residing alongwith her. There is some reference to indicate that her brother-in-law – Applicant No.3 was a law graduate and he started practicing in Pune. He was thus residing alongwith his brother and the informant in Pune. Close reading of the F.I.R. indicates that in the year 2020 the informant was allegedly sent to her parent's home since then there is no resumption of cohabitation. The F.I.R. has been lodged in December 2021 i.e. about 8-10 months after she left the company of her husband and in-laws as well. Further reading of the F.I.R. would suggest that the allegations of ill-treatment and harassment are in the nature of taunting

and abuses. No details thereof such as when those incidents took place have been given. Applicant No.4 is the wife of Applicant No.3. Applicant Nos. 5 to 7 are the married sisters-in-law of the informant. Applicant No.8 is the husband of Applicant No.6. Their marriages took place before the informant got married. As such, these applicants are residing at their matrimonial homes at Ahmednagar, Beed and Washi as well. The F.I.R. is silent to state as to when these applicants would visit the informant's matrimonial home either in Lanjeshwar or in Pune and ill-treated her. As such, it is a case of general and vague allegations against these applicants. Allowing the prosecution to proceed against them would be an abuse of process of Court.

8. In view of above, criminal application is allowed in terms of prayer clauses (B), (B-1) and (C-1) so far Applicant Nos. 3 to 8 are concerned. Application stands disposed of as withdrawn for Applicant Nos. 1 and 2.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

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