

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

CRIMINAL APPLICATION NO. 1687 OF 2022

1. Khanderao S/o. Raghunath Kawade (Brother-in-law)
Age : 41 years, Occu. : Private service,
R/o. Datta Nagar, Near Terna College,
Osmanabad, Tq. & Dist. Osmanabad.
2. Preeti W/o. Khanderao Kawade (Sister-in-law)
Age : 39 years, Occu. : Private service,
R/o. Datta Nagar, Near Terna College,
Osmanabad, Tq. & Dist. Osmanabad.

... Applicants.
(Orig. Accused No.2 &3)

Versus

1. The State of Maharashtra,
Through Police Inspector,
Police Station, Yusufwadgaon,
Tal. Kaij, Dist. Beed.
2. Radha W/o. Amol Kawade,
Age : 26 years, Occ. : Household,
At present R/o. Malegaon,
Tq. Kaij, Dist. Beed.

... Respondents.
(Res. No.2 – Orig.Complainant)

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Shri Ramraje D. Kawade, Advocate for Applicants
Shri S. D. Ghayal, APP for Respondent No.1
Ms. Jayashree Ghorpade (Nawale), Advocate for Respondent No.2 (Appointed)

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

DATED : 19 APRIL 2023

ORDER (PER ABHAY S. WAGHWASE, J.) :

. By invoking provisions under section 482 of the Code of Criminal Procedure, both applicants, who are brother-in-law and his wife, are seeking quashment of Crime bearing No.152 of 2019 at the instance of respondent no.2 and the criminal case arising out of it bearing R.C.C. No. 237 of 2019 pending on the file of Judicial Magistrate First Class, Kaij, District Beed.

2. Inviting our attention to the FIR, learned counsel for applicants would submit that respondent no.2 was married with non-applicant husband on 08.05.2015. There was no cruelty, ill-treatment or demand ever. He pointed out that, however, out of petty matrimonial discord, allegations have been levelled in the FIR dated 03.10.2019, thereby implicating all family members. It is pointed out that even allegations are non specific, general and omnibus in nature. It is pointed out that, infact, non-applicant husband has initiated proceeding under section 9 of the Hindu Marriage Act, 1955. The same was allowed. Precisely getting annoyed by the same, out of vengeance above complaint with false allegations is lodged subsequently. That, both applicants herein have no concern with routine domestic affairs of husband and respondent no.2. Therefore, he submitted that if above FIR and charge sheet against present applicants is not quashed and set aside, applicants would suffer injustice.

3. While opposing the above application, learned APP and learned counsel for respondent no.2 pointed out that applicants are named. Their roles are defined. That, after 5 to 6 months of marriage, there was ill treatment. Nature of ill treatment is stated in the FIR by respondent no.2. There was continuous harassment on one or other count coupled with demand of Rs.2,00,000/-. That, investigation has revealed involvement of applicants also, and thus, it is submitted that prosecution deserves opportunity to conduct the trial.

4. We have heard both sides to their satisfaction. FIR shows that marriage of respondent no.2 with non-applicant Amol was performed in 2015. She has alleged that initially for 5 to 6 months she was treated properly. But, thereafter parents-in-law, brother-in-law, sister-in-law started commenting that she is unable to do household work, she is not behaving properly and she was kept starved. We find that she has alleged that she was driven out of the house by mother-in-law, husband, brother-in-law and sister-in-law. When it happened has not been spelt out in the FIR. She is surprisingly found to be stating that she delivered a baby on 31.08.2016, and thereafter she returned back to her matrimonial house, but ill treatment continued. Then, she has alleged about demand of Rs.2,00,000/-, but she has named all in-laws.

5. Here, present applicant no.1 is brother-in-law of respondent no.2 and applicant no.2 is wife of applicant no.1. Their roles are not specifically defined. Both of them seem to be in service and to be residents of Datta Nagar, Osmanabad. Admittedly, husband and mother-in-law, against whom there are repeated allegations, are not before this court. There being omnibus allegations against the present applicants, in our considered opinion, they deserve protection. Even statements of relatives are general and non specific and seem to be on information by respondent no.2. They are all stereotype. Consequently, we proceed to pass following order :-

ORDER

(i) The criminal application is allowed.

(ii) Crime bearing No.152 of 2019, dated 03.10.2019 registered with Yusuf Wadgaon Police Station, Tq. Kaij, District Beed for the offences punishable under sections 498-A, 323, 504, 506 read with section 34 of Indian Penal Code and case bearing R.C.C. No. 237 of 2019 pending on the file of learned Judicial Magistrate First Class, Kaij, District Beed is hereby quashed and set aside.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)