

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

CRIMINAL APPLICATION NO.1449 OF 2021

Sagar Raghunath Patel & ors. ... APPLICANTS

VERSUS

The State of Maharashtra & anr. ... RESPONDENTS

.....
Mr. Vinod P. Patil, Advocate for applicants
Mrs. V.N. Patil Jadhav, A.P.P. for respondent No.1
Mr. A.L. Kanade, Advocate for respondent No.2.
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**CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.**

DATE : 1st FEBRUARY, 2023

P.C. :

With the consent of learned counsel for rival parties,
heard finally at the stage of admission.

2. This is an application under Section 482 of the Code of Criminal Procedure to quash First Information Report No.0129/2020, registered at Thalner Police Station, District Dhule and the consequential criminal proceeding bearing R.C.C. No.186/2020, pending before the learned Jt. Civil Judge, Senior Division and Judicial Magistrate, First Class, Shirpur, District Dhule for the offences punishable under Sections 498-A, 406,

323, 504, 506 read with Section 34 of the Indian Penal Code.

3. The application was initially filed by the husband (applicant No.1), mother-in-law (applicant No.3) and brother-in-law (applicant No.4) of the respondent No.2. The respondent No.2 had lodged the First Information Report alleging that these applicants had subjected her to physical and mental cruelty. The application has been allowed to be withdrawn as against applicants No.1 and 4 vide order dated 23/7/2021.

4. Learned counsel for the applicants submits that the First Information Report does not disclose any offence as against applicant No.3, mother-in-law of respondent No.2. He submits that, in the absence of any such allegations, compelling the applicant No.3 to face the trial will be sheer abuse of the process of law.

5. A perusal of the records reveal that the marriage of respondent No.2 and the applicant No.1 was solemnized on 14/4/2012. She left her matrimonial home on 15/11/2013 and since then she is residing with her parents. She lodged the First Information Report on 5/9/2020 wherein she alleged that her husband used to assault her over trivial issues. She also stated

that the applicant No.4 did not intervene and on the contrary, instigated her husband to assault her. She has stated that, her husband was refusing to cohabit with her. General allegations have been made that on 25/12/2019, all the applicants came to her parental home and told her to sever marital ties, failing which to give Rs.15,00,000/- to purchase an agricultural land. She has stated that, her husband had assaulted her in presence of all her family members.

6. Apart from omnibus statement that all the applicants had come to her parent's house and asked her to sever marital ties and/or to give Rs.15,00,000/-, there is absolutely no material on record to indicate that the applicant No.3 was in any way involved in subjecting the respondent No.2 to physical or mental cruelty. The allegations made in the First Information Report do not disclose offence under Section 498-A of the Indian Penal Code as against the applicant No.3. In such circumstances, compelling the applicant No.3 to face criminal trial will be sheer abuse of the process of the Court. Hence, in our considered view, this is a fit case to exercise powers under Section 482 of the Code of Criminal Procedure to prevent abuse of the process of Court.

7. In the result, the application is allowed in terms of prayer clause (B). Consequently, First Information Report No.0129/2020, registered at Thalner Police Station, District Dhule and the consequential criminal proceeding bearing R.C.C. No.186/2020, pending before the learned Jt. Civil Judge, Senior Division and Judicial Magistrate, First Class, Shirpur, District Dhule for the offences punishable under Sections 498-A, 406, 323, 504, 506 read with Section 34 of the Indian Penal Code are quashed as against applicant No.3 Mangalbai Raghunath Patel.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

fmp/-