

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

960 CRIMINAL APPLICATION NO.1705 OF 2020

1. Sunil s/o. Santosh Gayki
Age: 38 years, Occu.: Service.
2. Santosh s/o. Sampat Gayki
Age: 66 years, Occu.: Agril.,
3. Godawari w/o. Santosh Gayki
Age: 62 years, Occu.: Household.
4. Anil s/o. Santosh Gayki
Age: 40 years, Occu.: Service.
5. Vidya w/o. Anilkumar Gayki
Age: 30 years, Occu.: Housewife.
6. Rekha Rajesh Bhanapure
Age: 41 years, Occu.: Housewife.
7. Sanjay Madhavrao Ugale
Age: 52 years, Occu.: Agril.
8. Ravsaheb Vishwanath Mhaske
Age: 55 years, Occu.: Agril. ..Applicants

Versus

1. The State of Maharashtra
Through its P.I. Maujpuri Police Station,
Tq. & Dist.Jalna.
2. Daya Sunil Gayki
Age: 37 years, Occu.: Household. ..Respondents

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Advocate for Applicants : Mr. Prashant Shinde h/f Mr.K.D. Jadhav
APP for Respondent No.1 : Mrs.M.A.Deshpande
Advocate for Respondent No.2 : Mr.N.P.Badale h/f. Mr. S.G.Kawade
...

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

DATE : 29 March 2023

ORDER :-

. By invoking the powers of this Court under Section 482 of the Code of Criminal Procedure, the husband and his other relatives, who have been roped in Crime No.111 of 2012, registered with Maujpuri Police Station, Tq. and Dist.Jalna, for the offence punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code (IPC) and under Sections 3 and 4 of The Dowry Prohibition Act, are seeking quashment of the crime as also criminal case bearing R.C.C.No.188 of 2013 pending on the file of learned Judicial Magistrate First Class, Jalna.

2. We have heard both the sides.

3. The FIR alleges that respondent No.2's marriage was performed in the year 2005 and since thereafter, she started cohabiting with the applicants, who are the husband, parents-in-law, brother-in-law, two sisters-in-law and two maternal uncles. She has stated that she could beget a child in the year 2009 and since thereafter, she was subjected to ill-treatment. There was

persistent demand for money and she was subjected to cruelty on that count. She was beaten by suspecting her chastity. She informed her parents and brothers, who tried to mediate but the ill-treatment continued. Even the husband started beating her and later on established illicit relationship with a lady. Respondent No.2 approached the Women's Grievance Cell, Jalna and lodged the complaint. The husband appeared before the Women's Grievance Cell and undertook to maintain her but the ill-treatment did not abate. The FIR was lodged on 08-12-2012.

4. When we express our disinclination to grant any relief to applicant No.1, the learned Advocate for the applicants, on instructions, seeks leave to withdraw the application to the extent of applicant No.1 husband.

5. The learned Advocate for the applicants submits that respondent No.2 has cohabited in the matrimonial home for almost seven years prior to lodging of the FIR still the allegations are vague and omnibus and do not give particulars. Similar is the state of affairs in respect of statements of her relatives from parental side recorded under Section 161 of the Code of Criminal Procedure. Even a proceeding under Section 12 of the Protection

of Women from Domestic Violence Act 2005 was initiated by her wherein her testimony was recorded and she expressly admitted that she was staying with her husband. Rest of the applicants were also respondents in that proceeding.

6. In view of such state of affairs, the vagueness in the FIR and the statements of the witnesses would play vital role. Applicant Nos.2 to 8 are being falsely implicated just to settle the score and aggrieved by the matrimonial discord. It would be abuse of the process of the Court, if they are made to face prosecution.

7. The learned APP for respondent No.1 and learned Advocate for respondent No.2 strongly opposed the application.

8. Learned Advocate for respondent No.2 would submit that the Investigating Officer has manipulated the record. He has prepared a supplementary statement purportedly under her signature, but there is variance in the signature appearing on the supplementary statement and her signature appearing on the PAN card issued by the Income Tax Department, which is annexed with her affidavit-in-reply.

9. We have carefully considered the rival submissions and perused the papers.

10. Inspite of having put in 7 to 8 years of marital life, the FIR as also the statements of near relatives of respondent No.2 from the parental side are vague and do not give any particular as to the ill-treatment meted out to her with sufficient clarity. She has collectively named all the applicants for having subjected her to ill-treatment and for demanding money. If we peruse the testimony of respondent No.2 in Miscellaneous Criminal Application No.763 of 2012, which is available in record, in paragraph No.9, she had expressly stated that she was residing separately with her husband and respondent Nos.2 to 5 therein, who are some of the applicants, were residing separately. Such statements, which are recorded after lodging the FIR are clearly inconsistent with and belie the allegations in the FIR as regards the involvement of applicant Nos.2 to 8 in subjecting her to cruelty.

11. In view of such vague and omnibus allegations, it would certainly be abuse of process of the Court, if applicant Nos.2 to 8 are made to face the prosecution which has not proceeded even a bit since filing of the charge-sheet, for last almost ten years.

12. We allow the application partly. The Crime No.111 of 2012 registered with Maujpuri Police Station, Tq. and District Jalna, for the offence punishable under Sections 498A, 323, 504, 506 read with Section 34 of the IPC and under Sections 3 and 4 of The Dowry Prohibition Act, and criminal case bearing R.C.C. No.188 of 2013 pending on the file of Judicial Magistrate First Class, Jalna, to the extent of applicant Nos.2 to 8, are quashed and set aside.

13. The application to the extent of applicant No.1 is dismissed as withdrawn.

(ABHAY S. WAGHWASE)
JUDGE

(MANGESH S. PATIL)
JUDGE