

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2131 OF 2022

SUNIL SHIVAJI KADAM AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. P. B. Jadhav, Advocate for the Applicants.

Mr. S. D. Ghayal, APP, for the Respondent – State.

Mr. A. N. Nagargoje, Advocate for the Respondent No. 2.

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CORAM : SMT. ANUJA PRABHUDESSAI &
R.M. JOSHI, JJ

DATE : FEBRUARY 27, 2023

PER COURT :

1. Learned Counsel for the Respondent No. 2 states that the Respondent No. 2 is not ready to settle the matter amicably.

2. In the light of the said statement, learned Counsel for the Applicants seeks leave to withdraw the Application on behalf of Applicant No. 1 – Husband.

3. Leave granted. Application stands dismissed as against Applicant No. 1.

4. With consent, heard finally at the stage of admission.

5. This is an application under Section 482 of

Cr.P.C to quash the first information report no. 91/2022 registered with Kntur Police Station, Naygaon and R.C.C. No. 65/2022 pending on the file of learned JMFC, Naygaon for the offences punishable under Sections 498-A, 323 read with Section 34 of the Indian Penal Code.

6. The aforesaid crime was registered pursuant to the FIR lodged by Respondent No. 2 Rekhabai Kadam. The FIR reveals that the marriage of the Respondent No. 2 and the Applicant No. 1 was solemnized on 19.04.2018. The Respondent No. 2 lodged the FIR on 25.05.2022 alleging that the Applicant No. 1 had treated her well for some days and that thereafter all the Applicants including her husband, married sisters-in-law, their spouses, their children including minor children, maternal uncle and their son had instigated her husband by telling that she is unable to do proper household work. It is stated that due to the said instigation her husband used to assault her by kicks and blows. She claims that on 20.02.2020 her husband drove her out of house. She gave birth to twins on 24.07.2020. She further claims that her husband and family members did

not come to see to new born babies. That on 25.05.2022 they told her father that they would allow her to resume cohabitation only on payment of Rs. 20 lakhs.

7. The records reveal that the allegations of assault and demand of dowry are essentially against the Applicant No. 1 - husband, who has already withdrawn the Application. The only allegations against the other family members are that they had instigated the Applicant No. 1 by telling him that Respondent No. 2 was unable to do household work. These omnibus allegations, which are made against the other family members, do not constitute cruelty within the meaning of clauses 'A' and 'B' to explanation to Section 498-A of IPC.

8. At this stage, it would be relevant to refer to the decision in the case of Kahkashan Kausar @ Sonam and Ors Vs. State of Bihar and Ors reported in (2022) 6 SCC 599, wherein the Hon'ble Apex Court has referred to the previous decision in case of Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273, wherein it is observed that though Section 498-A I.P.C. was introduced with avowed object to combat the menace of harassment to a woman at

the hands of her husband and his relatives, the said section is used as weapons rather than shield. It is held that the simplest way to harass is to get the husband and his relatives arrested under this provision. The Supreme Court has further observed that there is increased tendency of implicating the relatives of the husband in matrimonial dispute without analyzing the long-terms ramifications of a trial on the complainant as well as the accused. It is held that false implications by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. The Hon'ble Supreme Court has warned the Court from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.

9. In the instant case, the Respondent No. 2 has not only implicated the married sisters-in-law but also implead their minor children in the aforesaid crime. This is a classic case where the Respondent No. 2 has roped in all the family members of her husband in the matrimonial dispute, without attributing any specific

role to them. In such circumstances, subjecting these applicants to face criminal trial would be sheer abuse of the process of law. Hence, in our considered view, this is a fit case to exercise powers under Section 482 of Cr.P.C to prevent the abuse of the process of Court.

10. In the result, the Application is allowed in terms of prayer clause 'B'. Consequently, first information report no. 91/2022 registered with Kntur Police Station, Naygaon and R.C.C. No. 65/2022 pending on the file of learned JMFC, Naygaon for the offences punishable under Sections 498-A, 323 read with Section 34 of the Indian Penal Code are hereby quashed qua the Applicant Nos. 2 to 16.

(R.M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J)