

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

980 CRIMINAL APPLICATION NO.1619 OF 2021

1. Vishal s/o Govind Gore
**(Application of applicant No.1 is dismissed
as withdrawn by order dated 19-01-2022)**
2. Govind s/o Tukaram Gore
3. Usha s/o Govind Gore
4. Anil s/o Govind Gore
5. Suvarna s/o Manoj Changle
6. Prassana s/o Sakharam Lamghe
7. Nayna w/o Prassana Lamghe ..Applicants

VERSUS

- . The State of Maharashtra
and Another ..Respondents

...

Advocate for Applicants : Mr.Mukulanand R. Wagh

APP for Respondent No.1 : Mr.V.S.Badakh

Advocate for Respondent No.2 : Mr.Satej S. Jadhav

...

**CORAM : MANGESH S. PATIL &
M.M. SATHAYE, JJ.**

DATE : 23 March 2023

ORDER (MANGESH S. PATIL, J.) :-

. Father-in-law of respondent No.2 alongwith his other relatives initially were seeking quashment of FIR No.208 of 2021 registered at the instance of respondent No.2, who happens to be the wife. The application was withdrawn to the extent of the applicant No.1 husband and we are now examining continuation of the crime to the extent of the other relatives namely parents-in-law, brother-in-law and two sisters-in-law and the husband of one of the sisters.

2. Learned Advocate for the applicants would submit that accepting the allegations in the FIR and even the statements of father and brother of respondent No.2 recorded under Section 161 of the Code of Criminal Procedure, only vague and omnibus allegations have been levelled against all these applicants. He points out that even respondent No.2 in her reply to the notice served by the husband had clearly mentioned that she had cohabited with all the in-laws under the same roof merely for 2 to 3 months of the marriage. It has been specifically mentioned therein that later on, due to transfer of the husband, she started cohabiting with the husband elsewhere. He would therefore submit that on the basis of vague and omnibus allegations, the applicants are being roped in merely because they are relatives of the husband. He would further submit that, it is only after the husband served respondent No.2 with a notice through his Advocate, that the FIR has been lodged. It would be abuse of process of Court, if the applicants are allowed to face prosecution based on such vague allegations.

3. Learned APP for respondent No.1 as also learned Advocate for respondent No.2 opposed the application.

4. Mr.S.S.Jadhav, learned Advocate for respondent No.2 points

out that inspite of the fact that the husband was already married and the respondent No.2 was not informed about such earlier marriage and even registration of similar crime at the instance of the first wife, the Investigating Officer has not taken cognizance. Atleast for 2 to 3 months, respondent No.2 was residing with the applicants under the same roof. At this juncture, there is nothing to disbelieve her version about cruelty at the hands of the applicant Nos.2 to 7 on account of demand of money. The father and the brother of respondent No.2 have repeated the allegations. It would be appropriate that a fair opportunity is extended to her to substantiate the allegations which can happen only if the trial is permitted.

5. We have carefully considered rival submissions and perused the papers. The law as regards implication of the relatives of the husband in an offence punishable under Section 498A of the Indian Penal Code and usual tendency to rope in all the relatives has often being commented by the Supreme Court in various matters viz. ***Preeti Gupta and another Vs. State of Jharkhand and another AIR 2010 SC 3363, Geeta Mehrotra and another Vs. State of U.P.; 2021 SCC OnLine SC 1251 and latest in the case of Kahkashan Kausar @ Sonam and others Vs. State of Bihar and others; (2022) 6 SCC 599.***

6. We have been called upon to exercise the powers under Section 482 of the Code of Criminal Procedure, which are limited, still a bare look at the FIR and the statements of the father and brother of respondent No.2, would *ex facie* demonstrate that accepting those allegations at their face value, the ingredients for constituting the offence cannot be discerned. The FIR and the statements vaguely aver about the date of marriage, the manner in which she started cohabitation and subsequent demand for money and she having been subjected to cruelty and later on the demand for money to engage an Advocate.

7. Even if it is borne in mind that the FIR cannot be an encyclopedia, there are no specific statements of respondent No.2 recorded by the Investigating Officer or even of her parental side relatives giving further details. The fact remains that except the vague and omnibus allegations in the FIR and the statements of father and the brother of respondent No.2, there is absolutely nothing to attribute any overt act specifically attributable to the applicants.

8. Over and above, as is submitted by the learned Advocate for the applicants, in her reply to the notice served by the husband and through her Advocate, she has specifically

mentioned that the couple cohabited with these applicant Nos.2 to 7 for 2 to 3 months after the marriage and not thereafter as her husband was transferred. Taking into consideration all the aforementioned facts and circumstances of the case, in our considered view, the present case is squarely covered by the aforementioned decisions of the Supreme Court. It would be abuse of process of the Court, if the applicants are made to face the prosecution based on such vague and omnibus allegations.

9. Application is partly allowed. FIR No.208 of 2021 registered with Ghansavangi Police Station, District Jalna, for the offence punishable under Sections 498A, 323, 504 read with 34 of the Indian Penal Code and consequent charge-sheet, to the extent of applicant Nos.2 to 7, is quashed and set aside.

(M.M. SATHAYE)
JUDGE

(MANGESH S. PATIL)
JUDGE