

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2326 OF 2022

1. Dnyaneshwar Jatan Sonawne [Husband]
Age: 41 years, Occ: Service
2. Nirmalabai Jatan Sonawne [Mother-in-law]
Age: 65 years, Occ: Household
3. Parmeshwar Jatan Sonawne [Brother-in-law]
Age: 37 years, Occ: Agriculture
4. Chandrshekhar Jatan Sonawne [Brother-in-law]
Age: 35 years, Occ: Service

1 to 4 R/o: Kurangi, Taluka Shahada,
Dist. Nandurbar.

5. Nana Labha Koli
Age: 66 years, Occ: Retired
6. Kusum Nana Koli
Age: 60 years, Occ: Household
7. Ashok Nana Koli
Age: 33 years, Occ: Service
8. Yogita Nana Koli
Age: 29 years, Occ: Household,
5 to 8 R/o: Navagaon, Lonkheda,
Taluka Shahada, Dist. Nandurbar.

Versus

1. The State of Maharashtra
2. Dipali Dnyaneshwar Sonawne

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Mr. Amit S. Savale, Advocate for the Applicants.
Mr. V. S. Badakh, APP for Respondent No.1-State.
Mr. Yogesh K. Kanade, Advocate for Respondent No.2 (Absent)

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

**RESERVED ON : 27 MARCH 2023
PRONOUNCED ON : 11 APRIL 2023**

JUDGMENT (ABHAY S. WAGHWASE, J.):

1. By instant proceedings, the applicants, who are husband, mother-in-law, brothers-in-law and other relatives of husband of respondent no.2, are seeking quashment of FIR No. 142 of 2022 registered with Upanagar Police Station, Nandurbar for the offences punishable under Sections 498-A, 494, 323, 504, 506 r/w 34 of the Indian Penal Code (IPC) which is at the instance of respondent no.2 and the criminal case arising out of it bearing RCC No. 223 of 2022 pending on the file of Judicial Magistrate First Class, Nandurbar.

2. Law was set into motion by respondent no.2 alleging that after her marriage with applicant no.1 Dnyaneshwar on 28.05.2010, she went to reside with her husband and in-laws. According to her, there were disputes and quarrel between her father father-in-law and mother-in-law as mother-in-law was keen in performing marriage of

applicant no.1 husband with daughter of her brother and to this, father-in-law had strongly opposed. In this background, she claims that she was humiliated and insulted and subjected to mental cruelty. According to her, the husband and in-laws were also upset for delivering girl child. When her parents questioned the husband and in-laws for not taking her back, mother-in-law abused them in filthy language and her father was beaten by husband. There was beating to her uncle when they had been to lodge complaint at Mhasawad Police Station. She also speaks about maintenance proceedings filed by her at Nandurbar. Further, according to her, when she had been to attend one marriage on 09.03.2022, there she learnt that her husband had performed second marriage. Hence the instant FIR.

3. Learned counsel for the applicants submits that the complaint is false and motivated one. That, the instances quoted in the FIR are more than a decade old. That there was no ill-treatment as alleged by either husband or in-laws. False and concocted story is set up in the FIR. Learned counsel pointed out that even otherwise, her husband and applicant no.8 have already sought withdrawal of the application to their extent. Therefore, only application as against the mother-in-law, brothers-in-law and other relatives, who are residents of different places, remained for consideration. The allegations as against them

are non-specific and general in nature. Roles played by them or particulars and details of the ill-treatment allegedly given by them is not spelt out in the complaint and thus, according to him, prosecution as against applicant nos.2 to 7 is misdirected and is with ulterior motive and hence, it is prayed that relief as prayed be granted.

4. Learned APP also invited our attention to the papers on record, more particularly the FIR, and pointed out that it is clear that after few days of marriage, respondent no.2 was ill-treated. That there were abuses and insult by mother-in-law and other applicants. They were upset for delivering girl child and there are allegations of beating to her father and brother. That, she was neglected and therefore she went to her parents and filed maintenance proceedings. In March 2022, respondent no.2 learnt about second marriage performed by her husband and hence complaint was lodged and it was investigated and complicity of all accused persons is sufficiently established and as such, according to learned APP, it is not a fit case for grant of relief as prayed.

5. Learned Advocate for respondent no.2 was absent when the matter was called out. Therefore the matter is taken up on merits.

6. We have given anxious thought to the submissions advanced by each side.

7. There is no dispute that after filing of the proceedings, at the time of admission, when this court showed disinclination to grant relief to applicant no.1 husband and applicant no.8 Yogita, learned counsel for the applicants sought withdrawal of the application to their extent. Therefore, now it is to be seen whether applicant nos. 2 to 7 are entitled for relief of quashment as prayed by them.

8. The FIR dated 14.06.2022 at the instance of respondent no.2 goes to show, and also there is no dispute, that she was married with applicant no.1 on 28.05.2010. Complaint reveals that after marriage, she came to reside with her husband applicant no.1, father-in-law Jatan, mother-in-law Nirmalabai (applicant no.2) and two brothers-in-law, namely, Parmeshwar (applicant no.3) and Chandrashekhar (applicant no.4). It is emerging from the complaint that there were disputes *inter se* between her father-in-law and mother-in-law. According to her, the reason for dispute was that mother-in-law Nirmalabai was keen in marrying her son applicant no.1 Dnyaneshwar with the daughter of her brother and this was opposed by the father-in-law and on such count, there used to be quarrels

between them. According to her, the husband, mother-in-law and both brothers-in-law used to continuously taunt her saying that she was not of their choice.

9. It is emerging from the complaint that her husband, on account of his service, was residing at Aawarde, Taluka Kannad, whereas she was residing at Kurangi. Her complaint also reveals that one brother-in-law, namely Parmeshwar, was residing at Lonkheda and he was undertaking education, whereas other brother-in-law, namely Chandrashekhar, who was an Engineer, was in Badoda (Gujarat). She has alleged that whenever these brothers-in-law came, they also insulted and taunted her. There are allegations about mother-in-law and brothers-in-law being upset for delivering girl child and she was insulted and abused on that count by mother-in-law. She has alleged beating to her brother as well as father by husband. Finally she claims that in March 2022 she learnt that her husband had performed second marriage and therefore crime is registered.

10. From the above allegations, it is clear that almost all allegations are attributed to husband and mother-in-law. Complainant herself has stated that her both brothers-in-law were residing at Lonkheda, Taluka Shahada and Badoda (Gujarat) respectively, after her

marriage. Resultantly, except alleging taunting by brothers-in-law, there is no other serious allegation. As regards applicant nos. 5 to 7 are concerned, it is alleged that in spite of they being aware of their marriage and respondent no.2 having a daughter, they performed marriage of applicant no.8 with her husband and applicant no.8 also have a daughter out of their said relations. Therefore, as regards applicant nos. 5 to 7, there are allegations about second marriage. However, allegations about second marriage and cruelty cannot go hand in hand in one proceeding. A private complaint is required to be filed for commission of offence punishable under Section 494 of the Indian Penal Code.

11. Therefore, in the light of above material, we are of the considered opinion that the application as regards applicant nos. 3 to 7 deserves to be allowed. Resultantly, we proceed to pass the following order:

ORDER

- I. The application is partly allowed.
- II. The application to the extent of applicant no. 1 Dnyaneshwar (husband) and applicant no.8 Yogita Nana Koli is disposed of as

withdrawn.

III. The application to the extent of applicant no.2 Nirmalabai (mother-in-law) is dismissed.

IV. The FIR No. 142 of 2022 registered with Upanagar Police Station, District Nandurbar for the offences punishable under Sections 498-A, 494, 323, 504, 506 r/w 34 of IPC and the criminal case arising out of it bearing RCC No. 223 of 2022 pending on the file of Judicial Magistrate First Class, Nandurbar are quashed and set aside as against applicant nos. 3 to 7 only.

[ABHAY S. WAGHWASE, J.]

[MANGESH S. PATIL, J.]

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