

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

CRIMINAL APPLICATION NO. 2387 OF 2022

1. Gangadhar Bhimrao Valakate
Age: 74 years, Occu.: Agri.,
2. Shakuntala Gangadhar Valakate
Age: 64 years, Occu.: Household,
3. Mahesh Gangadhar Valakate
Age: 32 years, Occu.: Agri.,
All R/o Mahalangra, Tq. Chakur,
Dist. Latur

..APPLICANTS

VERSUS

1. State of Maharashtra
Through Police Inspector
Vivekanand Chowk Police Station,
Latur, Tq. & Dist. Latur
2. Vijayshri Vyankatesh Valakate
Age: 32 years, Occu.: Service,
R/o Mahalangra, Tq. Chakur,
Dist. Latur
At present Shahu Nagar, Latur,
Tq. & Dist. Latur

..RESPONDENTS

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Mr. H.P. Jadhav, Advocate for applicants
Mr. A.R. Kale, A.P.P. for respondent no.1 – State
Ms. Divya Kandelwal, Advocate for respondent no.2 (appointed)

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**CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.**

DATE : 03rd FEBRUARY, 2023

PER COURT :

1. Heard finally at admission stage with consent of learned counsel
for the respective parties.

2. This is an application under Section 482 of Code of Criminal Procedure to quash the F.I.R. bearing C.R. No. 90 of 2022 registered at Vivekanand Chowk Police Station, Dist. Latur and consequent Charge-sheet No. 48 of 2022 and criminal proceeding bearing R.C.C. No. 343 of 2022 pending on the file of Judicial Magistrate First Class, Latur for the offences punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code.

3. The Applicant Nos. 1 and 2 are the parents-in-law and the Applicant No.3 is the brother-in-law of the Respondent No.2. The marriage of Respondent No.2 and Vyankatesh Valakate, son of the Applicant Nos.1 and 2, was solemnized on 02nd June 2014. She lodged the F.I.R. on 05th February, 2022 alleging that since 2015 her husband had subjected her to physical and mental cruelty.

4. Learned counsel for the applicants states that the allegations in the F.I.R. are essentially against the husband of the Respondent No.2. He submits that these applicants have been unnecessarily dragged in the marital dispute between the Respondent No.2 and her husband. Even if the allegations made in the F.I.R. and the other material on record which forms part of the charge-sheet are accepted in their entirety, do not disclose offence under Section 498-A I.P.C.

5. Per contra, learned counsel for the Respondent No.2 contends that the applicants herein had encouraged the husband of Respondent No.2 to commit the said offence. She further submits that these applicants had not allowed her to enter her matrimonial house even after she was driven out by her husband.

6. We have perused the records and considered the submissions advanced by the learned counsel for respective parties. The only question for our consideration is whether the allegations made against these applicants disclose the offence under Section 498-A I.P.C. Perusal of the F.I.R. reveals that the Respondent No.2 and her husband were staying separately since about fifteen days from the date of their marriage. The allegations in the F.I.R. are essentially against her husband. She has alleged that her husband used to take away her salary, money as well as ATM card and would abuse and assault her under the pretext that she had not brought sufficient dowry. She has stated that on 10th July, 2020 her husband driven her out of the house and the applicants herein did not allow her to return to her matrimonial house. These are the only allegations made against these applicants which even if accepted as true, do not constitute offence under Section 498-A I.P.C. It is evident that the Respondent No.2 has dragged these applicants into the matrimonial dispute even though she has been residing separately with her husband and the applicants have otherwise in no way harassed or subjected her to cruelty and involved in demanding dowry.

7. In *Kahkashan Kausar @ Sonam and Ors. Vs. State of Bihar and Ors., (2022) 6 SCC 599* the Hon'ble Supreme Court after considering the previous decisions, has noted that there is increased tendency over the issue of Section 498-A I.P.C. being misused and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is held that false implication by way of general and omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Present case falls in similar category wherein the Respondent No.2 has roped in all the in-laws in the matrimonial dispute. In such circumstances, compelling these applicants to face trial in the criminal proceeding would be an abuse of the process of law. Hence, in our considered view, the case is squarely covered by Illustrations 1 and 3 of the judgment of Hon'ble Supreme Court in *State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors., 1992 AIR 604*.

8. In the result, criminal application is allowed in terms of prayer clause [A]. Consequently, the F.I.R. bearing C.R. No. 90 of 2022 registered at Vivekanand Chowk Police Station, Dist. Latur and consequent Charge-sheet No. 48 of 2022 and criminal proceeding bearing R.C.C. No. 343 of 2022 pending on the file of Judicial Magistrate First Class, Latur for the offences

punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code stand quashed, qua the present applicants.

9. Fees of Ms. Divya Khandelwal, learned counsel appointed to represent the Respondent No.2 is quantified to Rs.6,000/- (Rupees Six Thousand) to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

(R.M. JOSHI, J.)

SSD

(SMT. ANUJA PRABHUDESSAI, J.)