

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2399 OF 2022

1. Chandrashekhar s/o Pandharinath Dhobale
2. Yeshoda w/o Pandharinath Dhobale
3. Sachin s/o Pandharinath Dhobale
4. Jayshree w/o Sachin Dhobale
5. Rani @ Varsharani d/o Pandharinath Dhobale
@ Varsharani w/o Dhandip Borade,
6. Lata w/o Bajirao Jagtap
7. Aruna w/o Bharat Pawar

Versus

1. The State of Maharashtra
2. Ujjwala w/o Chandrashekhar Dhobale

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Mr. Kalyan V. Patil, Advocate for the Applicants.

Mr. S. D. Ghayal, APP for Respondent No.1.

Mr. U. B. Bilolikar, Advocate for Respondent No.2

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

DATED : 25.04.2023

ORDER [ABHAY S. WAGHWASE, J.] :

1. This application under Section 482 of the Criminal Procedure Code is for quashing FIR No. 115 of 2022 registered with Markhel Police Station, District Nanded for the offence punishable under Sections 498-A, 323, 504 r/w 34 of the Indian Penal Code (IPC) lodged at the instance of respondent no.2 herein.

2. Respondent no.2, who was married to applicant no.1 in 2001, informed Markhel Police Station, District Nanded that after marriage, she was treated well up to 2003. Thereafter, the applicants i.e. husband, mother-in-law, brother-in-law, wife of brother-in-law and sisters-in-law all started abusing her on the count of her failure to bring Rs.4,00,000/- from her parents for purchase of a tempo for husband. On this count, it is alleged that, there was physical and mental cruelty to her. She was kept starved and beaten with slaps and fist blows. According to her, on 06.10.2021 when her father and brother came, at that time husband and in-laws again put up a demand of Rs.4,00,000/- saying that if the amount is not paid, they should take respondent no.2 back with them as she is then not required. On the above complaint, FIR has been lodged.

3. According to learned counsel for the applicants, the above complaint is out of vengeance and is apparently full of false allegations. Learned counsel took us through the FIR and would submit that an attempt has been made to rope in entire family. According to him, informant has not specified details and particulars or role in spite of naming all relatives of husband. According to him, sisters-in-law are already married and reside at distinct places.

Applicant no.2 is senior citizen and an old aged mother. The allegations are primarily omnibus and general in nature. It is pointed out that way back in 2017, a notice for cohabitation was issued but she deliberately avoided. That, proceedings under Section 9 of the Hindu Marriage Act were also instituted by husband in 2022. That, as a backlash, above FIR is lodged and therefore, as according to him it is full of false and baseless allegations, relief as prayed is required to be granted.

4. Above application is opposed by both, learned APP as well as learned counsel for respondent no.2, on the ground that applicants are specifically named. Allegations are about they jointly abusing and putting up demand of Rs.4,00,000/- for purchase of a tempo and on such count subjecting respondent no.2-informant to cruelty. It is submitted that investigation is in progress and therefore it is not a stage to grant relief as prayed.

5. At the outset it needs to be mentioned that when this Court was not inclined to consider relief as against applicant no.1-husband, learned counsel for applicants, on instructions, sought permission to withdraw the same and it was accordingly granted.

6. Here, it is emerging that marriage of respondent no.2 with applicant no.1-husband was performed in 2001. It seems that out of the wedlock applicant no.1 and respondent no.2 have a child. Respondent no.2 claims that for two years i.e. up to 2003, she was treated well but thereafter she has named her husband, mother-in-law, brother-in-law, wife of brother-in-law and sisters-in-law for abusing her and asking her to raise amount from her father for purchase of a tempo. It is pertinent to note that applicant no.2 is mother-in-law and she is apparently 75 years of age. As regards applicant nos.3 to 7 are concerned, they are shown to be residents of Parali Vajinath, Pune and Kharabwadi, taluka Ahmedpur respectively. Therefore, applicants are residing at different places. Even otherwise, allegations against them are apparently omnibus in nature. They all are tried to be involved alleging abuse and beating by slaps and fist blows in the backdrop of demand of money for purchase of a tempo for applicant no.1. Therefore, no specific role is attributed to any of the applicants. In our opinion, in the light of such nature of allegations, prosecution against them would render unnecessary hardship and injustice to them. Most of the allegations are against husband in the backdrop of demand of money for purchasing a vehicle for him. It is apparently an attempt to rope in entire family even though they are shown to be residing at different places.

Consequently, applicant nos. 2 to 7 have made out a case for grant of relief. Accordingly, we proceed to pass the following order:

ORDER

- I. The application is partly allowed.
- II. The application to the extent of applicant no.1-husband is dismissed as withdrawn.
- III. The FIR No. 115 of 2022 registered with Markhel Police Station, District Nanded for the offence punishable under Sections 498-A, 323, 504 r/w 34 of IPC is hereby quashed and set aside to the extent of applicant nos. 2 to 7.

[ABHAY S. WAGHWASE, J.]

[MANGESH S. PATIL, J.]