

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1974 OF 2020

Jyoti d/o Satwa Kandhare & another

Applicants

Versus

The State of Maharashtra & others

Respondents

Mr. N. S. Kandarale, Advocate for the applicants.

Mrs. V. N. Patil-Jadhav, APP for respondents No. 1 and 2.

Mr. B. N. Gadegaonkar, Advocate for respondent No. 3.

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

DATE : 10th FEBRUARY, 2023.

PER COURT :

1. With consent, heard finally at the stage of admission.
2. This is an application under Section 482 of the Code of Criminal Procedure to quash First Information Report i.e. Crime No. 126/2017 registered with Kandhar Police Station, Kandhar, Dist. Nanded and Sessions Case No. 26/2018 pending on the file of learned Sessions Judge, Kandhar, Dist. Nanded for the offences punishable under Sections 498A, 307, 201, 109, 504 read with Section 34 of the Indian Penal Code.

3. Heard learned counsel for the applicants, learned APP for respondents No. 1 and 2 and, learned counsel for respondent No. 3.

4. We have perused the record and considered the submissions advanced by learned counsel for the respective parties. The only question for consideration is whether the First Information Report and the other material collected in the course of investigation prima facie discloses any cognizable offence against the applicants.

5. It is to be noted that the crime against these applicants was registered pursuant to the First Information Report lodged by respondent No. 3. The marriage of respondent No. 3 and one Vitthal Jayebhaye, the brother of applicant No. 2 herein was solemnised in the month of February, 2016. Respondent No. 3 lodged First Information Report on 23rd May, 2017 alleging that her husband had illicit relations with applicant No.1 herein. He used to phone her and send text messages. Her husband had told her that he wanted to marry applicant No. 1. Respondent No. 3 has accused her husband and inlaws for demanding Rs. 1,50,000/- and they subjecting her to cruelty for not meeting the said unlawful demand.

6. Respondent No. 3 claims that her husband was serving in Indian Army. Whenever he used to go on duty, she used to stay with her parents. She has stated that in the month of May 2017, when her husband returned home, her in-laws came to her parental home to take her to her matrimonial home. When she refused to go stating that she was not being treated well, her husband and his family members assured that she would be treated well. She states that she went to her matrimonial home in view of the assurance given by her husband and his family members. She claims that she was compelled to return to her parental home as once again her husband and his family members abused and assaulted her for not getting an amount of Rs.1,50,000/-. She stated that on 22nd May, 2017, at about 10.00 pm, her husband questioned her as to why she had not brought money from her parents and told her that he wanted to marry applicant No. 1. He assaulted her and tried to electrocute her. She has stated that when she shouted for help, her in-laws came in the room and her father-in-law poured kerosene on her person and her mother-in-law set her ablaze. She, therefore, lodged a complaint against her husband and his family members and applicant No. 1 herein with whom her husband was allegedly having

illicit relations, alleging that they subjected her to physical and mental cruelty and had attempted to cause her death.

7. The First Information Report reveals that the allegations of cruelty are essentially against the husband. Apart from stating that her husband was having illicit relations with applicant No. 1, there is absolutely no material on record to indicate that applicant No. 1 was in any manner involved in subjecting respondent No. 3 to cruelty or attempting to cause her death. The allegations in the First Information Report and the other material collected in the course of investigation do not disclose any offence as against applicant No. 1.

8. The applicant No. 2, the brother-in-law of respondent No. 3, is stated to be a military man. The only allegation against him is that he along with his parents demanded dowry. Apart from the omnibus allegations, there is nothing on record to indicate that he subjected respondent No. 3 to cruelty. He was not present in the house when the husband and in-laws of respondent No. 3 allegedly attempted to set her ablaze. Hence, we are of the view that the allegations in the First Information Report as well as other material which form part of the charge-sheet does not disclose any offence as

against these applicants. In such circumstances, compelling these applicants to face criminal trial would be sheer abuse of process of law.

9. In the result, the application is allowed. First Information Report i.e. Crime No. 126/2017 registered with Kandhar Police Station, Kandhar, Dist. Nanded and Sessions Case No. 26/2018 pending on the file of learned Sessions Judge, Kandhar, Dist. Nanded for the offences punishable under Sections 498A, 307, 201, 109, 504 read with Section 34 of the Indian Penal Code are quashed qua the applicants.

(R. M. JOSHI)
Judge

(SMT. ANUJA PRABHUDESSAI)
Judge

dyb