

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

982 CRIMINAL APPLICATION NO.2621 OF 2022

- 1) Lata w/o Balkrishna Satale
r/o. House No. 237, Near Gajanan
Maharaj Temple, Shiv Nagar,
Balapur Road, old city Akola
Tq. & Dist. Akola.
- 2) Bharti w/o Sandip Tathe
- 3) Bhakti d/o Sandip Tathe,
- 4) Purva d/o Sandip Tathe
No. 2 to 4 r/o. House No. 334,
Shiv Nagar, Balapur Road, Near
Water Tank, Old City Akola Tq. &
Dist. Akola.
- 5) Darshan Santosh Tambat
r/o. Chopda Dist. Jalgaon
At present Near Gajanan
Maharaj Temple, Shiv Nagar,
Balapur Road, old city Akola
Tq. & Dist. Akola.

... Applicants

VERSUS

- 1) The State of Maharashtra
- 2) Laxmi wd/o Rahul Satale,
R/o Rathgalli, Faijpur, Tq.
Yawal, Dist. Jalgaon.

... Respondents.

...
Advocate for Applicants : Mr. Patil Prafullasing H.
APP for Respondent No. 1 : Mr. S.D.Ghayal
Advocate for Respondent No. 2 : Mr. B.R. Kedar

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

DATE : 08.03.2023

PER COURT :

Heard.

2. The application to the extent of applicant Nos. 1, 2 and 5 is sought to be withdrawn when we express our disinclination to grant any relief to them on merits.

3. Rest of the applicants are seeking quashment of the crime registered at the instance of the respondent No. 2 who happens to be the widowed daughter in law of the applicant No. 1, bearing Crime No. 122/2022, registered with Police Station Faijpur Tq. Yawal Dist. Jalgaon, for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

4. The learned advocate for the applicants submits that though the applicant Nos. 3 and 4 of which the latter is a minor have been roped in along with rest of the applicants for the alleged illtreatment meted out to the respondent No. 2 only one incident wherein the respondent Nos. 3 and 4 are stated to have abetted commission of assault on the respondent No. 2 by rest of the applicants without further details there are no allegations about even these two applicants having taken part in subjecting the respondent No. 2 to cruelty. Permitting them to be prosecuted along with rest of the applicants would be misuse of the process of the Court. The statements of the witnesses are equally vague. Though some dispute seems to have started after the husband of the respondent No. 2 passed away, the applicant Nos. 3 and 4 have not played any role. They are being roped in merely because they have been cohabiting with the rest of the applicants along with the respondent No. 2 till the time the latter was cohabiting with them.

5. The learned A.P.P. and the learned advocate for the respondent No. 2 submit that even to the extent of applicants No. 2 and 3 there are allegations at least in respect of one episode wherein they allegedly abetted assault on the respondent No. 2. The learned A.P.P. submits that the prosecution deserves to be extended an opportunity to substantiate these allegations revealing complicity of these applicant Nos. 3 and 4.

6. We have carefully considered the rival submissions and perused the papers.

7. According to the respondent No. 2, even after demise of her husband she continued to cohabit with the applicants under the same roof. There are specific allegations against the applicant Nos. 1 and 2 and 5. However, as regards the role attributed to the applicant Nos. 3 and 4, these two girls are stated to have caught hold the respondent No.2 while she was being assaulted by rest of the applicants. At this juncture except such bald and isolated allegation, there is no material to reveal about these two girls having taken active part in subjecting the respondent No. 2 to cruelty.

8. When admittedly, the dispute has occurred after demise of the husband of the respondent No. 2, when serious allegations are attributed to the applicant No. 5 as to how he was going to the extent of spreading a rumour regarding her being unchaste, merely because the applicant Nos. 3 and 4 have been cohabiting under the same roof, in all probability they are being implicated. In our considered view, it would be hazardous to permit the applicant Nos. 3 and 4 to face the trial with the quality of material collected by the investigating officer.

9. The Application is partly allowed. Crime No. 122/2022, registered with Police Station Faijpur Tq. Yawal Dist. Jalgaon, for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code is quashed and set aside to the extent of applicant Nos. 3 and 4.

10. The Application to the extent of applicant No. 1, 2 and 5 is dismissed as withdrawn.

(M. M. SATHAYE, J.)

(MANGESH S. PATIL, J.)

mkd/-