

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

979 CRIMINAL APPLICATION NO.2624 OF 2022

1. Ashabai Lalchand Bora.
2. Kantilal Lalchand Bora.
3. Hiralal Lalchand Bora.
4. Vijaya Ashokchand Kunkulol. ... Applicants

Versus

1. The State of Maharashtra.
2. Mangal Papalal Bora. ... Respondents

...

Mr. Amol S. Sawant, Advocate for Applicants.

Mr. R. V. Dasalkar, APP for Respondent No.1 / State.

Mr. Mahesh Kalidas Bhosale, Advocate for Respondent No.2.

...

CORAM : R. G. AVACHAT and
SANJAY A. DESHMUKH, JJ.

DATE : 25th July, 2023.

Per Court:

1 Heard.

2 The application has been filed for quashment of FIR No.30 of 2022 dated 27th February, 2022 and consequential charge-sheet in R.C.C. No.71 of 2022, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code.

3 What can be gathered from the FIR and the police papers is that the respondent/wife married co-accused Papalal way back in March, 1993. The couple is blessed with two grown-up children. The children are with the mother.

4 Close reading for the FIR and police papers indicate that the respondent/wife to have no grievance of ill-treatment in connection with any unlawful demand. The only incident narrated in the FIR is dated 26th October, 2021. On that day, co-accused Papalal / husband assaulted her, suspecting her character. He insisted for divorce. He also asked her to leave the matrimonial home. That time, sister-in-law Vijaya, one of the applicants herein, manhandled her and pushed her out of their house, while brothers-in-law Kantilal and Hiralal, other applicants, bolted the gate of the compound of her matrimonial house only with a view not to allow her entry in the matrimonial home.

5 It has further been averred in the FIR that on 29th November, 2021, respondent/wife lodged police report against her husband alone. The said report pertains to the incident dated 26th October, 2021.

6 Thereafter, the informant filed a complaint dated 2nd December, 2021 and then FIR dated 27th February, 2022.

7 The learned counsel for the respondent/wife and the learned APP would submit that the FIR and the police papers, *prima-facie*, make out a case against all the applicants. No mini trial can be conducted here. The names of all the applicants figured in the report dated 2nd December, 2021 and even in the statements of the relations. They, therefore, urged for rejection of the application.

8 The report lodged by the respondent/wife on 29th November, 2021, is not part of police papers. In the said report, she had grievance against her husband alone. The said report, admittedly, pertains to the incident dated 26th October, 2021. The same suggests the present applicants were no way involved in the said incident. As such, attributing them with some overt acts in the FIR dated 27th February, 2022 is nothing but an afterthought. Asking the applicants to stand trial based on such material, would be an abuse of process of Court. Hence, the application is allowed in terms of prayer clause (A).

[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]

nga