

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2671 OF 2022

1. Shivaji s/o Venkati Pitale (withdrawn),
 2. Venkati s/o Vitthal Pitale,
 3. Satyashila w/o Venkati Pitale,
 4. Kapil s/o Venkati Pitale,
 5. Pranita d/o Venkati Pitale
- ...Applicants

versus

1. The State of Maharashtra
 2. Savita w/o Shivaji Pitale
- ...Respondents

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Mr. Ramchandra S. Patil, advocate for the applicants
Mr. A. R. Kale, A.P.P. for respondent No.1
Mr. S. B. Madde, advocate for respondent No.2

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**CORAM : R. G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 27th JULY, 2023.**

PER COURT :-

1. The learned advocate for the applicants, on instructions, withdraws the application of applicant No.1/husband.
2. The present application has been filed under Section 482 of Cr.P.C. for quashment of F.I.R. No. 0100 of 2019, registered with Ahmedpur police station, district Latur, for the offences punishable under Sections 498-A, 323, 504, 506(2) r.w. 34 of I.P.C. and the consequential charge sheet bearing R.C.C. No. 50 of 2019 pending before the Judicial Magistrate, First Class, Ahmedpur, District Latur.

3. What can be gathered from the F.I.R. and the police papers is that the respondent/wife married co-accused Shivaji in May, 2017. Thereafter, she started residing at her matrimonial home. After marriage, for one and half month she was treated well. Thereafter, the ill-treatment started. She was allegedly turned out the matrimonial home on 8.7.2017. Therebefore, she was harassed and ill-treated so as to coerce her to fetch an amount of Rs.3,00,000/- for construction of a house. It has also been averred in the F.I.R. that on 30.9.2018, all the applicants went to parental house of the respondent/wife and insisted her to sign a blank stamp paper. When she refused, all the applicants assaulted and abused her. She had approached Ahmedpur police station, but no cognizance of the said incident was taken by the concerned police station officer. On the same lines are the statements of the relations of respondent/wife.

4. The learned advocate for the applicants would submit that the allegations are general, vague and omnibus. Although the incident dated 30.9.2018 has been highlighted, the F.I.R. has been lodged six months thereafter. The report of the incident, if any, lodged by the respondent wife has not been placed on record. Even the said incident is taken as it is, no ingredients of offence punishable under section 498-A of I.P.C. could be invoked. He therefore, urge for grant of this application.

5. The learned advocate for the respondent/wife and the

learned A.P.P. have strong reservations to grant the application. According to them, the F.I.R. specifically states the incidents as to how the harassment and ill-treatment was given to the respondent/wife. No mini trial can be conducted here. They therefore, urge for rejection of the application.

6. The respondent/wife stayed at her matrimonial home only for three months. True, she conceived and has been blessed with a son. The fact is that, post September, 2017, there is no resumption of matrimonial tie. The F.I.R. has been lodged in March, 2019. The incident dated 30.9.2018 has been highlighted. It has been alleged that the present applicants had been to parental house of the respondent wife, insisted her to sign a blank stamp paper. When she refused, she was beaten up. The report of the said incident was allegedly lodged, but the same is not forthcoming. Admittedly, the crime has been registered based on the order passed under Section 156(3) of Cr.P.C. Necessarily, the said application was drafted by an advocate. Still, no specific incident of harassment or ill-treatment in connection with unlawful demand of money has been highlighted in the F.I.R. We meant to say, the day, date and time of the incidents harassment have not been disclosed in the F.I.R. As such, it is a case of general, vague and omnibus allegations against the applicants herein. Directing them to stand trial based on such material would be an abuse of process of law. We are therefore, inclined to allow the application. Thus, the criminal application is allowed in terms of

prayer clauses "B" and "C" to the extent of applicant Nos. 2 to 5.

7. It is made clear that the trial court shall not be influenced by the observations made herein order, while proceeding against the husband.

(SANJAY A. DESHMUKH, J.)

(R. G. AVACHAT, J.)

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