

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

CRIMINAL APPLICATION NO. 2830 OF 2022

1. Rajendra Balbhim Takale
(withdrawn vide order dated 20/09/2022)
2. Pramila Balbhim Takale
Age: 77 years, Occu.: Nil
3. Akshay Balbhim Takale
Age: 31 years, Occu.: Nil,
Applicant Nos. 2 and 3
R/o Sai Nagar, Ling Road, Dist. Ahmednagar
4. Rohini Satish Dhumal
Age: 38 years, Occu.: Household,
R/o Kamble Nagar, Kedgaon,
Tq. & Dist. Ahmednagar
5. Jyoti Dattatraya Ralebhat
Age: 41 years, Occu.: Household,
R/o Godown Galli, Jamkhed,
Tq. Jamkhed, Dist. Ahmednagar

..APPLICANTS

VERSUS

1. State of Maharashtra
Through Investigating Officer
Kotwali Police Station, Ahmednagar,
Dist. Ahmednagar
2. Tanuja Rajendra Takale
Age: 29 years, Occu.: Pvt. Job,
R/o Shinde House, Sangitmangalam,
Gadgemala, Tq. & Dist. Yeotmal

..RESPONDENTS

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Mrs. S.D. Jayabhar, Advocate h/f Mr. D.R. Jayabhar, Advocate for applicants
Mrs. V.N. Patil-Jadhav, A.P.P. for respondent no.1 – State
Mr. A.S. Kulkarni, Advocate for respondent no.2

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

DATE : 04th JANUARY, 2023

PER COURT :

1. With consent of learned counsel for the parties, heard finally at the stage of admission.

2. This is an application under Section 482 of the Code of Criminal Procedure for quashing of the R.C.C. No. 539 of 2021 pending on the file of J.M.F.C., Ahmednagar arising from the F.I.R. bearing C.R. No. 6290 of 2020 lodged with Kotwali Police Station, Ahmednagar for the offences punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code.

3. The above stated crime was registered pursuant to the F.I.R. lodged by Respondent No.2. She claims that her marriage with Applicant No.1 was solemnised on 28th October, 2018. Respondent No.2 has alleged that in November 2019 she conceived, however Applicant No.1 had compelled her to terminate the pregnancy. She has alleged that Applicant No.1 had extra-marital relations with several women. Respondent No.2 has also levelled allegations against Applicant No.2, who is seventy-seven years old, mother of Applicant No.1, Applicant No.3, the brother and Applicant Nos. 4 and 5, who are the married sisters of Applicant No.1. She has alleged

that these applicants have ill-treated her and subjected to cruelty. She has stated that Applicant No.5 had snatched her *mangalsutra* and Applicant No.2 had abused her and taken away her belongings.

4. It is to be noted that present application has been withdrawn as against Applicant No.1. The question for consideration is whether the F.I.R. prima facie discloses offence against Applicant Nos. 2 to 5.

5. Learned counsel for the applicants submits that Applicant No.1 was never married to Respondent No.2 and he was in fact married to one Rani Takle and that the divorce petition filed against Rani Takle is still pending before the Civil Judge Senior Division, Shrigonda. She submits that these applicants cannot be termed as 'the relatives of the husband' and consequently cannot be prosecuted for offence under Section 498A of the I.P.C. Even otherwise there are no specific allegations against these applicants and continuance of proceedings will be an abuse of the process of law. Per contra, learned counsel for Respondent No.2 submits that the Respondent No.2 is the legally wedded wife of the Applicant No.1. She submits that the Applicant No.1 as well as these applicants have subjected the Respondent No.2 to physical and mental cruelty. The allegations in the F.I.R. disclose offence against these applicants. Hence, this is not a fit case to exercise power under Section 482 of the Cr.P.C.

6. We have perused the records and considered the submissions of learned counsel for the respective parties.

7. The Respondent No.2 has alleged that she has married Applicant No.1 after dissolution of her previous marriage. The F.I.R. indicates that their marriage was solemnised in a temple on 28th October, 2018, in presence of friends and family members. She has stated that the Applicant No.1 is previously married. It is also undisputed that the divorce proceedings filed by the Applicant No.1 against his legally wedded wife Rani Takle are pending adjudication. The records reveal that the legality of the marriage of the Applicant No.1 and Respondent No.2 is in dispute. However, this issue is not relevant to decide the application particularly in view of the decisions of the Apex Court in Reema Aggarwal Vs. Anupam and Others, (2004) 3 SCC 199 and A. Subash Babu Vs. State of Andhra Pradesh and Another, (2011) 7 SCC 616. The core question is whether the allegations made in the F.I.R. disclose any offence against these applicants.

8. The F.I.R. prima facie reveals that the grievance of Respondent No.2 is essentially against the Applicant No.1. She has alleged that the Applicant No.1 never loved her, even after the marriage he continued having illicit relations with several women and that he compelled her to terminate the pregnancy. The only accusations against these applicants are that they

abused, insulted and assaulted her and subjected her to mental cruelty on one pretext or the other. These are patently omnibus allegations. The only specific accusation against Applicant No.5 is that she had snatched the *mangalsutra* of Respondent No.2. The F.I.R. was lodged in the year 2020. The investigation has been completed. Learned A.P.P. states that no gold ornament has been recovered from Respondent No.5. Even otherwise, no crime is registered under Section 379 of the I.P.C. The accusations levelled by Respondent No.2 against these applicants, being the aged mother, married sister and the younger brother of the Applicant No.1, do not constitute offence under Section 498A of the I.P.C. In such circumstances, allowing the prosecution to continue on the basis of such omnibus allegations would be an abuse of process of law.

9. In these circumstances, criminal application is allowed in terms of prayer clause (C). Consequently, the R.C.C. No. 539 of 2021 pending on the file of J.M.F.C., Ahmednagar arising from the F.I.R. bearing C.R. No. 6290 of 2020 lodged with Kotwali Police Station, Ahmednagar stands quashed qua Applicant Nos.2 to 5.

(R.M. JOSHI, J.)

SSD

(SMT. ANUJA PRABHUDESSAI, J.)