

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

CRIMINAL APPLICATION NO. 2889 OF 2022

1. Bhagwan Namdeo Mali
 2. Bebabai Bhagwan Mali
(withdrawn vide order dated 19th September, 2022)
 3. Priyanka Sitaram Mahajan
Age: 36 years, Occu.: Housewife,
R/o Aurangabad, Tq. & Dist. Aurangabad
 4. Sitaram Daga Mahajan
Age: 46 years, Occu.: Service,
R/o Aurangabad, Tq. & Dist. Aurangabad
 5. Suresh Bhatta Mahajan
Age: 55 years, Occu.: Labour
R/o Village Moghan,
Tq & Dist. Dhule
 6. Sunil Ramdas Mahajan
Age: 40 years, Occu.: Labour,
R/o Thane, Tq. & Dist. Thane
 7. Sapna @ Vaishali Sunil Mahajan
Age: 35 years, Occu.: Housewife,
R/o Thane, Tq. & Dist. Thane
- ..APPLICANTS

VERSUS

1. State of Maharashtra
 2. Swapnali Pankaj Mali
Age: 24 years, Occu.: Household,
R/o Patonda, Tq. Chalisgaon,
Dist. Jalgaon
- ..RESPONDENTS

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Mr. V.B. Jadhav, Advocate h/f Mr. S.S. Kathar, Advocate for applicants
Mr. S.D. Ghayal, A.P.P. for respondent no.1 – State
Mr. S.A. Kulkarni, Advocate for respondent no.2

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

DATE : 19th JANUARY, 2023

PER COURT :

1. Heard finally with consent of learned counsel for the respective parties.

2. This is an application under Section 482 of Code of Criminal Procedure filed by the aforestated applicants to quash the F.I.R. bearing C.R. No. 169 of 2022 registered with Chalisgaon Police Station, Dist. Jalgaon and consequent Charge-sheet No. 111 of 2022 registered as R.C.C. No. 257 of 2022 pending on the file of learned J.M.F.C., Chalisgaon, Dist. Jalgaon for the offences under Sections 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code.

3. The aforesaid crime was registered pursuant to the F.I.R. lodged by the Respondent No.2 alleging cruelty by her husband, his parents and other family members. The Applicant Nos. 1 and 2, the parents-in-law of Respondent No.2 have withdrawn the application vide order dated 19th September, 2022. The Applicant No.3 is the married sister-in-law of the Respondent No.2. The Applicant No.4 is the spouse and the Applicant No.7 is the niece of the Applicant No.3. The Applicant No.6 is the husband of Applicant No.7, whereas the Applicant No.5 is the cousin-in-law of the husband of the Respondent No.2.

5. The marriage of Respondent No.2 and Pankaj Mali, the brother of Applicant No.3 was solemnized on 28th November, 2019. The Respondent No.2 has alleged that she was treated well for about 10-15 days and thereafter her husband and his parents demanded a sum of Rs.5 lakhs from her parents for construction of a house. They alleged that her family members did not give them due respect during and post wedding ceremony. They also alleged that Respondent No.2 did not know how to cook. She has stated that her husband abused and assaulted her in view of the instigation from his family members. She has stated that on 08th May, 2020 when she expressed her inability to get Rs.5 lakhs from her parents, her husband and his parents took away the gold ornaments given by her parents and drew her out of the house. She has further stated that on 27th June, 2020 her husband, his parents and sister came to her parental home and once again demanded Rs.5 lakhs and asked her to sever her marital ties in case she is unable to meet the demand.

6. A perusal of the F.I.R. and the other material on record reveals that the Respondent No.2 has roped in all the relatives of her husband without making specific allegations of cruelty against these applicants, who are the residents of different village. The accusations of demand of dowry are levelled only against the husband and not against these applicants. The only allegation against these applicants is that they had abused her and had

told her to sever her marital ties. The accusations in the F.I.R. and other records, even if accepted in their entirety, do not constitute 'cruelty' as envisaged in Explanation to Section 498-A I.P.C. Hence, the present case is squarely covered by Illustration (1) and (3) in case of ***State of Haryana and Others Vs. Ch. Bhajan Lal and Others, 1992 AIR 604***. In such circumstances, continuation of criminal proceedings against these applicants would be sheer abuse of the process of law.

7. In the result, the criminal application is allowed in terms of prayer clause (B) and (B1). Consequently, the F.I.R. bearing C.R. No. 169 of 2022 registered with Chalisgaon Police Station, Dist. Jalgaon and consequent Charge-sheet No. 111 of 2022 and R.C.C. No. 257 of 2022 pending on the file of learned J.M.F.C., Chalisgaon, Dist. Jalgaon for the offences under Sections 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code are hereby quashed qua Applicant Nos. 3 to 7.

(R.M. JOSHI, J.)

SSD

(SMT. ANUJA PRABHUDESSAI, J.)