



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

1001 CRIMINAL APPLICATION NO.3207 OF 2022

1. Sudhakar s/o. Fakirrao Hiwale.
2. Chandrakant s/o. Sudhakar Hiwale.
3. Anjali alias Anjana w/o. Sudhakar Hiwale.
4. Ranjana w/o. Shabastin Hiwale. **... Applicants**

Versus

1. The State of Maharashtra.
2. Kalavati w/o. Pravin Hiwale. **... Respondents**

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Mr. Bipinchandra K. Patil, Advocate for Applicants.

Ms. R. R. Tandale, APP for Respondent No.1 / State.

Mr. Pravin Dajiba Jadhav, Advocate for Respondent No.2.

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

DATE : 12th December, 2023.

ORDER: (Per Sanjay A. Deshmukh, J.)

1 Leave to amend prayer clause (B). Amendment be carried out forthwith.

2 Heard the learned advocates for the respective parties.

3 This is an application, under Section 482 of the Code of Criminal Procedure, 1973, for quashment of FIR and the consequential charge-sheet in RCC No.1491 of 2021, pending in the Court of learned

Judicial Magistrate First Class, Aurangabad, for the offences punishable under Sections 354, 354(A), 323, 504 and 506 read with 34 of the Indian Penal Code, 1860.

4 Respondent No.2/informant averred in the report that on 8th March, 2021, when she was in her bedroom, her mother-in-law was in the house. That time her husband was not in the house. At about 09:30 pm, the applicants entered into her bedroom and they quarreled with her. They asked her as to why she came there to reside with them. She told them that her husband called her to reside with him. Therefore, she came. The applicants refused to take her in the house and told her to go away and leave that house. That time, father-in-law (applicant No.1) abused her in filthy language and he caught hold her and touched her breast. That time, brother-in-law (applicant No.2) also abused her. Applicant No.1, father-in-law, made her to fell down. That time, applicant No.2 touched her breast and outraged her modesty. All the applicants threatened to kill her. Therefore, she lodged a report on 12th March, 2021.

5 The learned counsel for applicants submitted that the delay caused for lodging the report is not explained. During pendency of the matrimonial litigation, respondent No.2 came to reside there. The learned counsel for applicants submitted that report under

Sections 498-A, 504 and 506 read with 34 of the Indian Penal Code, 1860 was lodged on 21st March, 2020 and thereafter, this report is lodged. He pointed out the compromise pursis executed between the husband and respondent No.2/wife in the Family Court, Aurangabad in Petition No.A-52 of 2019 at Exhibit-35. As per clause (6) of that compromise, it was agreed that both the parties shall withdraw and end all the litigation.

6 The learned counsel for applicants pointed out that a lump-sum amount of Rs.7,50,000/- is deposited in the Family Court as per the terms of compromise. He further pointed out that all the household articles were handed over to respondent No.2 and as per the compromise executed at Exhibit-35, a divorce decree has been passed by the Family Court. He submitted to allow the application.

7 The learned counsel for respondent No.2 strongly opposed the application and contended that a fraud has been practiced upon respondent No.2. He further contended that compromise is not fully satisfied on the part of the applicants. Serious offence of outraging of modesty of respondent No.2 is committed by applicant No.1, when respondent No.2 went for cohabitation with her husband. He further contended that there is no reason for respondent No.2 to lodge such false report. Therefore, the report and charge-

sheet cannot be quashed. He lastly prayed to reject the application.

8 The learned APP also strongly opposed the application.

9 Admittedly, the compromise decree is not challenged by respondent No.2. An amount of Rs.7,50,000/- is deposited with the Family Court, which is not disputed by respondent No.2. All the household articles are handed over to respondent No.2. Respondent No.2 did not dispute her signature on the compromise at Exhibit-35. Considering the fact that respondent No.2 compromised the matter as per Exhibit-35 and agreed to dispose of all the litigation, as well as the delay caused for lodging the report, the application deserves to be allowed in the interest of justice. It would be abuse of process of the Court, if the applicants are compelled to fact the trial. We are therefore, inclined to allow the application in the interest of justice. The application is, therefore, allowed in terms of prayer clause (B).

[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]

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