

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

CRIMINAL APPLICATION NO.3279 OF 2022

1. Rina Bhausahab Barfe,
2. Bhausahab Rambhau Barfe,
3. Mina w/o. Sanjay Bansode,
4. Sanjay Chandrakant Bansode ..Applicants

Vs.

The State of Maharashtra and anr. ..Respondents

Mr.R.S.Kasar, Advocate for applicants
Mr.P.G.Borade, APP for respondent no.1
Mr.I.K.Wagh, Advocate for respondent no.2

AND

CRIMINAL APPLICATION NO.1906 2022

1. Dominik @ Balwant Devid Kamble,
2. Suman Dominik @ Balwant Kamble,
3. Vimal w/o. Abasaheb Vidhate ..Applicants

Vs.

The State of Maharashtra and anr. ..Respondents

Mr.P.S.Shinde, Advocate for applicants
Mr.P.G.Borade, APP for respondent no.1
Mr.I.K.Wagh, Advocate for respondent no.2

**CORAM : SMT. ANUJA PRABHUDESSAI
AND R.M.JOSHI, JJ.
DATE : FEBRUARY 03, 2023**

ORDER :-

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

2. These applications are filed under Section 482 of the Code of Criminal Procedure for quashing the FIR bearing Crime No.119 of 2017, registered with Ashti Police Station, Dist.Beed, for the offences punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of Indian Penal Code as well as the criminal proceedings, i.e. R.C.C. No.212 of 2017, pending on the file of learned Judicial Magistrate, First Class, Ashti, Dist.Beed.

3. Heard learned counsel for the applicants, learned APP for the respondent no.1 and learned counsel for the respondent no.2.

4. The aforesaid crime was registered pursuant to the FIR lodged by the respondent no.2. She has alleged that her marriage with Sachin Piraji Jadhav was solemnized on 17.10.2016. She stated that on the very next day, i.e. on 18.10.2016, her husband came home under the influence of liquor and when she questioned him, he

abused and assaulted her. She has stated that her in-laws, i.e. father-in-law, mother-in-law, brother-in-law, sisters-in-law, their spouses, maternal aunts of her husband and their spouses and the paternal uncle of her husband threatened her and told her to bring Rs.2 Lakhs from her parents to set up a shop. She has stated that she had sustained injuries because of the assault by her husband and that her in-laws had admitted her in the hospital. She further claims that her husband again consumed alcohol on the day of Diwali and created a ruckus in the house. She claims that he abused and assaulted her by kicks and blows. She has made omnibus allegations against all her in-laws of assault and demand of dowry. She has stated that she was once again assaulted on 02.12.2016 and was thrown out of the house on 03.12.2016. She alleged that when she was returning home, her husband and his entire family once again assaulted her, demanded dowry and threatened to cause her death. Based on these allegations, the aforesaid crime has been registered.

5. The tenor of the FIR *prima facie* reveals that the accusations are mainly against the husband of the respondent no.2. The record *prima facie* indicates that the husband of the respondent

no.2 used to consume alcohol and assault her under the influence of alcohol. It is to be noted that the applicant nos.1 and 3 in Criminal Application No.3279 of 2022 are married sisters-in-law of the respondent no.2 and the applicant nos.2 and 4 are their spouses. They are residents of Districts Ahmednagar and Pune, respectively. The applicant nos.2 and 3 in Criminal Application No.1906 of 2022 are maternal aunts of the husband of respondent no.2; while applicant no.1 is husband of applicant no.2. These applicants were in the age group 60 to 66 years and are residents of Mumbai.

6. The respondent no.2 has dragged the entire family of her husband in the matrimonial dispute by making omnibus allegations of demand of dowry and assault, even though they were not residing with her in the matrimonial home. It would be relevant to refer to the decision of the Apex Court in the case of **Kahkashan Kausar @ Sonam and ors. Vs. State of Bihar and ors., (2022)6 SCC 599**, wherein the Hon'ble Supreme Court, after referring to the previous judgments, has expressed concern over misuse of Section 498-A of I.P.C. and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused.

The Apex Court has observed that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law and warned the Courts from proceeding against the relatives and in-laws of the husband when no *prima facie* case is made out against them. In our considered view, present case falls in the same category since all the family members of the husband have been dragged in the matrimonial dispute, on the basis of the omnibus allegations.

7. In view of the above, allowing the prosecution in the absence of clear allegations against these applicants, would result in sheer abuse of the process of Court. Hence, this is a fit case to exercise the powers under Section 482 of the Code of Criminal Procedure, to prevent an abuse of the process of Court.

8. In the result, the applications are allowed in terms of prayer clause (B). Consequently, the FIR bearing Crime No.119 of 2017, registered with Ashti Police Station, Dist.Beed, for the offences punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of Indian Penal Code as well as the criminal

proceedings, i.e. R.C.C. No.212 of 2017, pending on the file of learned Judicial Magistrate, First Class, Ashti, Dist.Beed, shall stand quashed qua the applicants.

[R.M. JOSHI, J.]

[SMT. ANUJA PRABHUDESSAI, J.]

KBP