

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2533 OF 2021

1. Mr.Dwyne Domnic Pereira S/o Late Domnic Pereira(**withdrawn**)
 2. Mrs. Irene Domnic Pereira W/o Late Domnic Pereira
 3. Mr.Samuel Domnic Pereira S/o Late Domnic Pereira
- ..APPLICANTS

-VERSUS-

1. The State of Maharashtra
 2. Mrs. Nikita Pereira
- ..RESPONDENTS

...
Advocates for Applicants : Mr.Joslen Menzos A.
APP for the Respondent/State : Mrs.Vaishali S. Choudhari
Advocate for respondent no.2 : Mr.Arvind R. Kawade
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**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.**

DATED : 26th JULY, 2023.

ORDER (PER Sanjay A. Deshmukh, J.) :-

1. This is an application filed under section 482 of the Criminal Procedure Code, 1973 (for short, "Cr.P.C.") for quashment of FIR bearing C.R. No.476 of 2021 registered with CIDCO Police Station for the offences punishable under sections 498-A, 323, 504 read with section 34 of the Indian Penal Code, 1860 (for short, "IPC") and sections 3 and 4 of the Dowry Prohibition Act, 1961 and the consequential charge-sheet filed in R.C.C. No.903 of 2022 pending before the Judicial Magistrate, First Class, Aurangabad.

2. FIR in question discloses that informant Nikita married with Dwyne Pereira, the son of applicant no.2. Applicant no.3 is brother-in-law of the informant. It is alleged that after marriage, the applicants and the husband of the informant started to demand flat and vehicles. They used to harass her. She was expecting that in future, she will be treated well. However, demand and harassment was increased, therefore, the informant's parents frequently paid an amount of Rs.2,00,000/-. Informant also secured the loan of Rs.75,000/- for payment of installment of flat of her husband. On 11.12.2020, she was expelled from the matrimonial house, therefore, she went to reside with parents in parental house. After some days, she was taken back for cohabitation. However, she was again harassed for Rs.10,00,000/- for purchase of flat. Therefore, she lodged the report.

3. The learned advocate for the applicants argued that all the allegations are vague and baseless. No specific incident is averred in the report. In order to harass the applicants, the report is lodged. He, therefore, prayed to allow the application by quashing the report and charge-sheet.

4. The learned APP for the State and learned advocate for respondent no.2 argued that the allegations of illegal demand of Rs.10,00,000/- establishes the cruelty on the part of the applicants

and husband of the informant. Informant was beaten by the applicants. She was expelled from house. She paid Rs.75,000/- by taking loan for paying installment of the flat. Thus, there is prima facie case of causing cruelty to the informant. Therefore, the application deserves to be rejected.

5. Perused the FIR, charge-sheet and grounds raised in the application by the applicants.

6. The specific incidents of causing cruelty are not mentioned in the report. The last such incident, as stated by the informant, is dated 11.12.2020 when she was expelled from the matrimonial house and she started to reside with her parents at Aurangabad. Admittedly, the report is lodged on 30.06.2021 almost after six months. What happen prior to lodging of the report is not mentioned in the report. Delay is not explained. The roles of the applicants are not specified as to what way they have caused the cruelty to the informant. Therefore, they shall not be compelled to face the trial, which ultimately would not succeed. Thus, there is no prima facie case against the applicants. It would be an abuse of the process of Court to compel them to face the trial. The application, therefore, deserves to be allowed.

7. For the reasons discussed above, the argument of the learned counsel for respondent no.2 and learned APP is not acceptable in this regard.

8. In the result, the application is allowed. FIR bearing C.R. No.476 of 2021 registered with CIDCO Police Station for the offences punishable under sections 498-A, 323, 504 read with section 34 of the Indian Penal Code, 1860 and sections 3 and 4 of the Dowry Prohibition Act, 1961 and the consequential charge-sheet filed in R.C.C. No.903 of 2022 pending before the Judicial Magistrate, First Class, Aurangabad are quashed to the extent of applicant nos.2 and 3.

9. No costs.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

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