

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

CRIMINAL APPLICATION NO. 2656 OF 2021

- 1) Santosh Digamber Pawar,
Age 37 years, Occ. Teacher
 - 2) Manisha Santosh Pawar,
Age 33 years, Occ. Household,
both r/o. Kulswamini Niwas,
Anandnagar, Pathardi,
Tq. Pathardi, Dist. Ahmednagar
- ... **Applicants**

VERSUS

- 1) The State of Maharashtra
Through P.I. Georai Police Station,
Tq. Georai, Dist. Beed.
 - 2) Varsha Dinesh Rathod,
Age 24 years, Occ. Nil,
R/o. Kashinath Bhaurao Jadhav,
r/o. Bhagwan Nagar, Georai,
Tq. Georai, Dist. Beed.
- ... **Respondents**

...

Advocate for the Applicants : Ms. Sakshi Ajit Kale h/f Mr. Abhishek M.
Hazare

A.G.P. for the Respondent No. 1 : Mr. S.D. Ghayal

Advocate for Respondent No. 2 : Mr. Harsha R. Lomte (appointed)

**CORAM : MANGESH S. PATIL &
ABHAY S. WAGHWASE, JJ.**

DATE : 29.03.2023

PER COURT :

By resorting to the provisions of Section 482 of the Code of Criminal Procedure the applicants are seeking quashment of Crime No. 119/2021 registered with Georai Police Station District Beed for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code and the consequent charge-sheet and the criminal case bearing No. 457/2021 pending before the Judicial Magistrate First Class, Georai, Dist. Beed.

2. The respondent No. 2 filed the F.I.R with the allegations that she was married on 16.05.2017 and could beget a daughter. She was maintained properly for initial few days but subsequently the husband and other in laws started insisting her to bring money from her parents for purchasing a flat. When she expressed her inability she was subjected to cruelty. When she became pregnant the in laws started insisting for sex determination but she opposed it. She was dropped at the parental home for delivery but when she delivered a girl they refused to turning even to see the child. Her parents tried to convince them but they hurled abuses and declared that they will not allow her to resume cohabitation unless they were paid the money. She was beaten and driven out.

3. The applicants before us are the sister of the husband and her husband. The husband and the parents in law who are the co accused are not before us.

4. The learned advocate for the applicants would submit that they are being roped in falsely even when they have never cohabited with the respondent No. 2 under the same roof. The applicant No. 1 is a teacher who was at the relevant time posted in Raigad district and subsequently has been transferred to Karjat Taluka of Ahmednagar district. She submits that vague and omnibus allegations are being levelled against the applicants. No specific role or incident involving them has been mentioned either in the F.I.R. or the statements of the witnesses recorded under Section 161 of the Code of Criminal Procedure. It would be abuse of the process of law if the applicants are made to face the prosecution and the crime and the criminal case may be quashed.

5. The learned A.P.P. and the learned advocate for the respondent No. 2 strongly oppose the application. They submit that this is not the stage to resort to sifting of the material collected by the investigating officer. The statements in the F.I.R. and that of witnesses clearly mention both the

applicants having played role in demanding money and subjecting the respondent No. 2 to cruelty. The respondents deserve an opportunity to substantiate the allegations in the trial.

6. It is trite that the powers of this Court to quash a proceeding under Section 482 of the Code of Criminal Procedure are to be used sparingly and in rarest of rare cases. However, simultaneously, it is equally trite that there has been a usual tendency noticed by the apex Court time and again to rope in as many relatives of the husband as possible. There is no dearth of precedents.

7. A bare look at the allegations in the F.I.R. and the statements of the witnesses recorded under Section 161 of the Code of Criminal Procedure, would show that these allegations are same in verbatim. As is mentioned herein above, the husband and the parents of the husband are not before us and we are only considering the sufficiency or otherwise of the allegations qua the present applicants who are the sister of the husband and her husband. Accepting the allegations in the F.I.R. and in the statements of the witnesses at their face value, omnibus statements are made jointly against the husband, his parents and other relatives including the applicants, as having demanded money and having subjected the respondent No. 2 to cruelty. Since the applicant No. 2 is the married sister in law of the respondent No. 2, both the applicants must have been residing separately, and not under the same roof in the matrimonial home of the respondent No. 2. If the marriage had taken place in the year 2017 and even according to the respondent No. 2 she has been residing in the parental home since 2021, it was expected that there should have been some material to reveal some specific role attributable to both these applicants if really they had taken some part in either demanding the money or subjecting the respondent No. 2 to cruelty as is being alleged.

8. In similar set of circumstances and similarly vague allegations, the

Supreme Court has quashed and set aside the crime in the matter of **Kahkashan Kausar @ Sonam and Others Vs. State of Bihar and others; 2022 A.I.R. (SC) 820**. Pertinently, following decisions rendered earlier have been referred to :

- (1) **Lalita Kumari Vs. Govt of U.P and others; 2014 A.I.R. (SC) 187,**
- (2) **Social Action Forum for Manav Adhikar and another Vs. Union of India Ministry of Law and Justice and others; 2018 A.I.R. (SC) 4273.**
- (3) **Rajesh Sharma and others Vs. State of Uttar Pradesh and another; 2017 A.I.R. (SC) 3869.**
- (4) **Arnesh Kumar Vs. State of Bihar and another; 2014 A.I.R. (SC) 2756,**
- (5) **Preeti Gupta and another Vs. State of Jharkhand and another; 2010 A.I.R. (SC) 3363.**
- (6) **Geeta Mehrotra and another Vs. State of U.P and another; 2013 A.I.R. (SC) 181.**
- (7) **G.V Rao Vs. L.H.V Prasad; 2000 A.I.R. (SC) 2474, (8) K. Subba Rao and others Vs. State of Telangana; 2018 (14) SCC 452.**

9. In the light of above, in our considered view, with the lack of material revealing specific role attributable to the applicants in demanding money and subjecting the respondent No. 2 to cruelty, it would be hazardous to permit their prosecution to go on.

10 The Criminal Application is allowed. Crime No. 119/2021 registered with Georai Police Station District Beed for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code and the consequent charge-sheet and the criminal case bearing No. 457/2021 pending before the Judicial Magistrate First Class, Georai, Dist. Beed is quashed and set aside to the extent of the applicants.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)

mkd/-