

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

CRIMINAL APPLICATION NO. 3486 OF 2022

1. Bharat Rajendra Patil [Husband]

[application to the extent of applicant
no.1 is dismissed as withdrawn vide
order dated 19.10.2022]
2. Rajendra Govinda Patil [Father in law]
3. Jijabai Rajendra Patil [Mother in law]
4. Subash Rajendra Patil [Brother in law]
5. Popat Rajendra Patil [Brother in law]
6. Sangita Gajanan Patil [Sister in law] ... Applicants

versus

1. State of Maharashtra
2. Dipali Bharat Patil ... Respondents

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Mr. Parag V. Barde, Advocate for Applicants.
Mrs. M. A. Deshpande, APP for Respondent No.1-State.
Mr. Prafullasingh H. Patil, Advocate for Respondent No.2.

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

DATED : 03 APRIL 2023

ORDER [ABHAY S. WAGHWASE, J.] :

1. Husband and in-laws of respondent no.2 herein have prayed for
quashment of FIR No. 158 of 2022 registered with Chopda City Police

Station, Chopda, District Jalgaon for the offences punishable under Sections 498-A, 323, 504, 506, 510 r/w 34 of the Indian Penal Code (IPC) and the consequential criminal case bearing RCC No. 152 of 2022 pending on the file of Judicial Magistrate First Class, Chopda.

2. At the threshold it needs to be noted that at the time of admission, when this Court expressed its disinclination to consider relief as against applicant husband, the application was withdrawn to his extent. Now, proceedings remained only for consideration of relief as against applicant nos. 2 to 6.

3. Respondent no.2 approached Chopda City Police Station alleging that she was married to applicant no.1 on 28.04.2015. After narrating the amount expended in marriage, she stated that she came to reside with her husband and in-laws. Out of their wedlock, they had one daughter. According to her, she was residing with her husband, parents-in-law and brothers-in-law at Koliwada, taluka Kannad, District Aurangabad, whereas sister-in-law applicant no. 6 Sangita was residing at Gondgaon, District Jalgaon. She has alleged that said sister-in-law used to intermittently come to Kannad. She has alleged that for a year, she was treated well but thereafter, she realized that her husband was talking with a girl late night and was

also receiving messages from the said girl. When she questioned him, she has alleged that, she was insulted, abused and beaten and moreover threatened not to disclose it to anyone. She claims that when she complained about it to her parents-in-law and brothers-in-law, they abused herself only and threatened her. She has alleged that mother-in-law used to instigate husband to leave her. Even brothers-in-law instigated husband and as such, there was both, physical and mental ill-treatment to her. Later on, she alleged that brothers-in-law also suspected her character and father-in-law, after getting drunk, directed husband to get work done from her. She has alleged that even during lockdown, she was forcibly dropped at her parents house. Then she has alleged that her husband, parents-in-law and both brothers-in-law put up a demand of Rs.2,00,000/- for raising construction on upper floor of the house. Finally, getting fed up of such treatment mated out, she has lodged the above complaint against them.

4. It is the above complaint and criminal case arising out of it, which is sought to be quashed and set aside.

5. On behalf of applicants, it is strongly submitted that the allegations levelled in the FIR are baseless and afterthought and with

sole intention of harassing the entire family. Respondent no.2 was not keen in cohabiting and continuing her marriage. That, allegations of husband talking with girl are baseless. It is pointed out that applicant no.6 is already married and staying at other place. That, even marriage is of 2015 and complaint is lodged in 2022. There was no previous complaint against anyone. Therefore, learned Advocate submitted that with such FIR which is full of false, baseless, vague and omnibus allegations, prosecution cannot be allowed to be continued against them and so he prays for grant of relief as prayed.

6. Learned APP as well as respondent no.2, while opposing the instant proceeding, pointed out that applicants are named and their roles are clearly defined. Husband, parents-in-law, sister-in-law and brothers-in-law all participated in ill-treating the complainant. In spite of having a daughter, he was maintaining illicit relations. On being questioned, he ill-treated the complainant. There are allegations of instigation by parents-in-law and brothers-in-law to maltreat her. There is also demand of Rs.2,00,000/-. Therefore, there are specific allegations against all applicants and hence, it is prayed that application be dismissed.

7. In the light of above rival contentions and submissions, and on visiting the FIR, it is seen that marriage of applicant no.1 was performed with complainant on 28.04.2015. It seems that out of their wedlock, applicant no.1 and complainant have a daughter. There is no dispute that after marriage, complainant came to reside with her husband, parents-in-law and brothers-in-law and they all resided in a joint family. In the initial part of the FIR, there are allegations about illicit relations of husband and in such backdrop, he ill-treating her. However, as discussed above, we are not concerned with the allegations against husband as he has already withdrawn the proceedings to his extent. It is seen that there are also allegations against parents-in-law and brothers-in-law. The complainant has alleged that parents-in-law continuously instigated husband. There are allegations against brothers-in-law also for instigating husband. There are repeated allegations against parents-in-law i.e. applicant nos. 2 and 3. However, omnibus allegations are levelled against brothers-in-law i.e. applicant nos. 4 and 5. Both of them seem to be of young age. It is clear that applicant no.6 Sangita is married and residing at Gondgaon. Though she is named, as to when she came to Kannad has not been clarified. Except alleging instigation to husband, there are no other serious allegations against her. Therefore, in our considered opinion, prosecution as against applicant nos. 4 to 6

would definitely render injustice and hardship to them. These applicants deserve protection. It is a fit case for exercising power under Section 482 of Cr.P.C., but only as against applicant nos. 4 to 6. Taking into account the nature of allegations against parents-in-law i.e. applicant nos. 2 and 3, we are not inclined to grant relief against them. Consequently, we proceed to pass the following order:

ORDER

- I. The application is partly allowed.
- II. The application of applicant nos.2 and 3 is rejected.
- III. The FIR No. 158 of 2022 registered with Chopda City Police Station, Chopda, District Jalgaon for the offences punishable under Sections 498-A, 323, 504, 506, 510 r/w 34 of IPC and the consequential criminal case bearing RCC No. 152 of 2022 pending on the file of Judicial Magistrate First Class, Chopda, is hereby quashed and set aside to the extent of applicant nos.4 to 6 only.

[ABHAY S. WAGHWASE, J.]

[MANGESH S. PATIL, J.]