

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

CRIMINAL APPLICATION NO.2688 OF 2021

1. Anand Diliprao Jadhav
(Husband of Respondent No.2)
(Application is dismissed as withdrawn)
2. Malanbai Dilip Jadhav
(Mother in law of Resp. no. 2)
Age : Major years,
Occ: Old age/household,
3. Dilip Laxman Jadhav
(Father in law of Resp. no.2)
Age : Major years,
Occ: Old age/labour,
4. Praveen Dilip Jadhav
(Brother in law of Resp. no.2)
Age : 24 years, Occ: Student,

All R/o. Chatrapati Nagar, Near
Mukundwadi Railway Station,
Aurangabad.

...Applicants

Versus

1. The State of Maharashtra,
Through Maujpuri Police Station,
Maujpuri, Dist. Jalna.
2. Anuradha Anand Jadhav,
Age : 24 years, Occ : Household,
Current R/o. MotiGavhan,
at Post : Manegaon Khalsa,
Tq & Dt. Jalna.

...Respondents

...

Mr. V.P. Bakal and Ms. H.M. Kamble, Advocate for the Applicants.

Mr. S.D. Ghayal, APP, for the Respondent – State.

Mr. Dhanraj Ingole, Advocate for Respondent No. 2.

...

**CORAM : SMT. ANUJA PRABHUDESSAI &
R.M. JOSHI, JJ**

DATE : JANUARY 03, 2023

PER COURT :

1. At the outset, learned Counsel appearing for the Applicants seeks leave to amend prayer clause 'B' so as to substitute Section 506 with 504 of Indian Penal Code, 1860.

2. Leave granted. Amendment to be carried out forthwith.

3. With consent of learned Counsel appearing for respective parties, matter is heard finally at the stage of admission.

4. This is an application under Section 482 of Code of Criminal Procedure, 1973 for quashing FIR bearing C.R. No. 0224 of 2021 registered with Maujpuri Police Station, Jalna on 25.09.2021 for the offences punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code and consequent charge-sheet bearing no. 158/2021 (R.C.C. No. 1312/2021) filed before the JMFC, Jalna.

5. We have perused the record and considered the

submissions advanced by learned Counsel appearing for respective parties.

6. The aforesaid crime was registered pursuant to the first information report lodged by Respondent No. 2 (legally wedded wife of Applicant no.1 herein). Applicant nos. 2 and 3 are the parents and applicant no. 4 is the brother of the applicant no. 1. Marriage between the Respondent no.2 and the applicant no. 1 was solemnized on 11.05.2018. It is alleged in FIR by Respondent no. 2 that she was treated well for about one year and thereafter applicant no.1 started demanding Rs. 1 lacs from her parents. She further alleged that her husband and family members abused and assault her. She gave birth to a child on 22.02.2020. She has alleged that her husband and the applicant nos. 2 and 4 visited her parental home and once again assaulted her. She has alleged that the applicant and his family members had subjected her to physical and mental cruelty.

7. Learned Counsel appearing for the Applicants has placed on record copy of the judgement dated 28th September, 2022 passed in Petition No. A-326/2021 filed

before the Family Court, Aurangabad. Perusal of the same reveals that the applicant no.1 had filed the Petition for dissolution of marriage on the ground of cruelty. The Respondent no. 2 was duly served on summons. Though she appeared before Family Court, she subsequently failed to contest the proceedings.

8. Upon considering the evidence adduced by the applicant no. 1, the Family Court has granted divorce on the ground that the Respondent No. 2 subjected the applicant herein to cruelty. The record reveals that the Respondent no. 2 had not appeared before this Court despite due service. Hence, Adv. Dhanraj Ingole was appointed to espouse her cause. Learned Counsel appearing for Respondent no. 2 states that though he had make attempts to contact the Respondent no. 2 and her parents, they have failed to give him any instructions.

9. It may be noted here that by an order dated 01st December, 2021, application was dismissed as against applicant no. 1 as withdrawn.

10. Having considered the submissions of the

learned counsel for the Applicants and Respondents, the question for our consideration is whether the allegations made in the F.I.R., even if taken at face value and accepted in entirety, prima facie constitute offence alleged against the applicants. Before we delve into the nature of allegations made, it would be advantageous to refer to the latest judgment of Apex Court in case of ***Kahkashan Kausar alias Sonam and Others Vs. State of Bihar and Others, (2022) 6 SCC 599***, wherein the Hon'ble Supreme Court has observed that...*"incorporation of Section 498-A of I.P.C. was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid state intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as 498-A I.P.C. as instruments to settle personal scores against the husband and his relatives."* The Apex Court, upon considering the previous judgments relating to quashment of F.I.R. in respect of offence punishable

sunder Section 498-A of the I.P.C. has observed in paragraph no.17 thus,-

"17. ... this Court has at numerous instances expressed concern over the misuse of Section 498-A 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. It is further manifest from the said judgments 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. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them."

11. A perusal of the contents of the first information report reveals that there are no specific accusations against the applicants that either they had demanded dowry or subjected her to ill-treatment. Allegations of abuse and assault are omnibus and general in nature.

12. Considering the above facts and circumstances, continuation of further proceedings will amount to an abuse of the process of law. Hence, the application is

allowed *qua* applicant nos. 2 to 4 in terms of prayer clause 'B', 'B-1' and 'B-2'. As a consequences thereof, FIR bearing C.R. No. 0224 of 2021 registered with Maujpuri Police Station, Jalna on 25.09.2021 for the offences punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code, charge-sheet bearing no. 158/2021 and R.C.C. No. 1312/2021 filed before the JMFC, Jalna, are hereby quashed and set aside *qua* applicant nos. 2 to 4. Fees of appointed advocate is quantified @ Rs. 6,000/-.

(R.M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J)