

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

CRIMINAL APPLICATION NO.3511 OF 2022

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| 1. | Suresh S/o. Mahadeo Lagad, |] | |
| | Age : 56 Years, Occu. Business, |] | |
| | R/o. Near Tata Colony, Prabhudha Nagar, |] | |
| | R.C. Marg, Chembur, Mumbai – 400 074. |] | (Father-in-law) |
| 2. | Manda W/o. Suresh Lagad, |] | |
| | Age : 52 Years, Occu. Household, |] | |
| | R/o. Near Tata Colony, Prabhudha Nagar, |] | |
| | R. C. Marg, Chembur, Mumbai – 400 074. |] | (Mother-in-law) |
| 3. | Prashant S/o. Suresh Lagad, |] | |
| | Age : 29 years, Occu. Service, |] | |
| | R/o. Near Tata Colony, Prabhudha Nagar, |] | |
| | (G-69, Gate No.1) |] | |
| | R.C. Marg, Chembur, Mumbai – 400 074. |] | (Brother-in-law) |
| 4. | Vishal S/o. Suresh Lagad, |] | |
| | Age : 26 years, Occu. Service, |] | |
| | R/o. Near Tata Colony, Prabhudha Nagar, |] | |
| | (G-69, Gate No.1) |] | |
| | R.C. Marg, Chembur, Mumbai – 400 074. |] | (Brother-in-law) |
| 5. | Yogesh S/o. Dadasaheb Eekshinge, |] | |
| | Age : 39 years, Occ. : Agril., |] | |
| | R/o. Chincholi, Tal. Ashti, |] | |
| | Dit. Beed. |] | (Son of sister of father-in-law) |
| 6. | Dadasaheb S/o. Baburao Ekshinge, |] | |
| | Age : 68 Yarss, Occu. : Agril., |] | |
| | R/o. Chincholi, Tal. Ashti, |] | |
| | Dist. Beed. |] | (Husband of sister of Father-in-law) |
| 7. | Padminibai W/o. Dadasaheb Ekshinge, |] | |
| | Age : 62 years, Occu. : Agril., |] | |
| | R/o. Chincholi, Tal. Ashti, |] | (sister of father-in-law) |
| | Dist. Beed. |] | |

... Applicants.

Versus

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|----|--------------------------------------|---|------------------------|
| 1. | The State of Maharashtra |] | |
| | Through Ambhora City Police Station, |] | |
| | Tal. Ashti, Dist. Beed. |] | |
| 2. | Reshma W/o. Akash Lagad, |] | |
| | Age : 28 Years, Occu. Household, |] | |
| | R/o. Shiral, Tal. Ashti, Dist. Beed. |] | ... Respondents |

...
Advocate for Applicants : Mr. Sushant B. Choudhari
APP for Respondent No.1 : Mr. V. S. Badakh
Advocate for Respondent No.2 : Ms. Sunita G. Sonawane
...

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

RESERVED ON : 28 MARCH 2023

PRONOUNCED ON : 11 APRIL 2023

JUDGMENT (PER ABHAY S. WAGHWASE, J.) :

. In-laws of respondent no.2 complainant are seeking exercise of powers under section 482 of the Code of Criminal Procedure (Cr.P.C.) for quashing FIR bearing No. 222 of 2018 registered at Ambhora Police Station, Tq. Ashti, Dist. Beed, which was registered for offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code (IPC).

2. According to respondent no.2, after her marriage with non

applicant husband Akash, she went to reside with him and in-laws who were residing jointly. She has alleged that after two months of cohabitation and stay with husband and in-laws, she was subjected to mental and physical cruelty on petty counts. There used to be taunting and comments, saying that, she is not fit to be daughter-in-law of their house. She has alleged that nobody talked to her and whenever she attempted to do so, she was insulted. According to her, one day, all in-laws i.e. husband, parents-in-law and brothers-in-law told her that she should arrange Rs. 20 lakh for purchasing a flat at Chembur and also Rs. 10 lakh for setting up a petrol pump at Sabalkhed. They also said that if the amount is not arranged, she should take that she cannot cohabit. She has alleged that, mother-in-law use to instigate husband and brothers-in-law to give beating to her if she failed to bring money. Moreover, that when her husband and in-laws came at Sabalkhed, they complained that her mental treatment is going on and that this aspect was suppressed from them, and thereafter, they again demanded Rs. 30 lakh and on failure, threatened not to allow complainant to return for cohabitation. She has alleged beating at the hands of husband for failure to bring money and that she was forcibly dropped at her parent's house. While she was made to stay at Sabalkhed and that time she was kept alone and moreover kept starved. She has alleged that nephew of father-in-law, namely Yogesh Dadasaheb Ekshinge (Accused No.7), Dadasaheb Baburao Ekshinge (Accused No.8) and Padminibai Dadasaheb Ekshinge (Accused No.8) also talked to her in filthy language and also uttered

about her infidelity and as ill-treatment became severe, she was brought to her parent's house and hence she has implicated names of her husband and in-laws.

On the strength of above complaint, police have investigated the crime and charge-sheeted accused persons and such crime and charge-sheet is now sought to be quashed and set aside by exercising the powers under section 482 of Cr.P.C.

3. We have heard both sides at length.

4. Husband is not before this court. At the admission stage, when this Court expressed disinclination to grant any relief to applicant Nos.1 and 2 i.e. parents-in-law, learned counsel for the applicants, on instructions, has already withdrawn the instant proceeding to their extent. Therefore, the proceedings to the extent of applicant Nos.3 to 7 have only remained for consideration.

5. According to learned counsel for applicant, complaint is patently false. There was no ill-treatment, demand, taunting as alleged in the complaint. On the contrary it is submitted that complainant was mentally disturbed and this fact was kept hidden from them. Her behaviour and

conduct was improper. It is pointed out that parents and relatives of respondent no.2 themselves used to issue threats and enter the house and beat applicants. Complaints to that extent were also lodged at police station. Learned counsel invited our attention to the complaints at Exhibit-‘C’. For above reasons, it is submitted that the instant complaint is false, afterthought and with the sole intention of harassing husband and in-laws.

6. On behalf of State, the learned APP would point out that applicants are named in the FIR. There are allegations of demand of Rs.30 lakh for purchase of flat as well as setting up a petrol pump. He submitted that roles of husband and in-laws are clearly defined, and therefore, there is sufficient material for trial, and hence, he prays to dismiss the application.

7. Learned counsel representing respondent no.2 also resisted the application and prayers contending that there was ill-treatment and cruelty to respondent no.2 merely after few months of marriage. That, husband and in-laws, more particularly, parents-in-law and brothers-in-law put up demand of Rs.30 lakh. On failure to meet the said demand, they refused to allow her to cohabit and there was both, physical and mental cruelty to her. All instances are narrated by her in the complaint. Only because of such grave allegations, FIR was registered and investigation was carried out, during which there is sufficient evidence gathered by investigating machinery and now they are

charge-sheeted. Therefore, according to her, accused persons are liable to face consequences for their deeds and hence, she prays that application be dismissed.

8. Here, applicants have invoked inherent jurisdiction of this Court under section 482 of Cr.P.C. In catena of judgments the Hon'ble Apex Court has time and again reiterated that inherent powers under section 482 of Cr.P.C. can be exercised by the High Court; *firstly*, to give effect to an order under Cr.P.C., *secondly*, to prevent abuse of process of court and *thirdly*, to secure ends of justice.

As to when powers under Section 482 of Cr.P.C. can be exercised is fairly settled by slew of judgments including ***Inder Mohan Goswami and Anr. Vs. State of Uttaranchal and Ors. ; (2007) 12 SCC 1 and Mahendra K.C. Vs. State of Karnataka and Another ; (2022) 2 Supreme Court Cases 129.***

9. Having dealt with law on exercise of inherent powers under section 482 of Cr.P.C., we now turn to the FIR and charge-sheet in the case in hand to examine whether the case for exercise of such powers is at all made out.

10. In the light of above background and material on record, it seems that complainant was married with non-applicant husband in 2016. On

carefully examining the complaint, more particularly, initial part of the complaint, there seems to be allegations only against husband, parents-in-law and two brothers-in-law, i.e. applicant nos. 1 to 4.

11. According to complainant, there was demand of Rs.20 lakh for purchasing flat at Chembur and Rs.10 lakh for setting up petrol pump. According to her, all this happened merely after 2 months of marriage. Taking into account the date of marriage, it would be somewhere around June/July of 2016. Applicant nos.3 and 4 have placed on record leaving certificates issued by College of Engineering and Technology, Navi Mumbai and D. Y. Patil Institute of Engineering & Technology, Talegaon MIDC Road, Talegaon Pune respectively. They appear to have obtained the said leaving certificates in the year 2017 and in 2022 respectively. Therefore, both applicant Nos.3 and 4 seem to be undergoing education during the period for which allegations of demand and ill-treatment are attributed.

12. In the complaint, respondent no.2 has alleged that applicant nos.5, 6 and 7 talked to her in abusive and filthy language during their visit at Sabalkhed, during the period i.e. on 27.12.2017, while respondent no.2 was residing at there. This is a solitary incidence of some utterance which is spelt out in the FIR. Therefore, here as regards to applicant nos.3 to 6 are concerned, there are apparently no allegations of ill-treatment in the backdrop

of any demand. However, there are repeated allegations against husband and applicant nos.1 and 2. Admittedly, husband is not before this court.

As regards applicant nos.1 and 2 i.e. parents-in-law are concerned, application to their extent has already been withdrawn.

13. For above reasons, allegations as against applicant nos.3 to 7 seem to be in absence of allegation of maltreatment in the backdrop of any demand. Therefore, in our opinion, launching of prosecution against them would be definitely amount to an abuse of process of law. They will be unnecessarily made to face trial with such quality of evidence. Consequently, we proceed to pass following order:-

ORDER

(i) Criminal Application is partly allowed.

(ii) Crime bearing No. 222 of 2018, dated 26.11.2018 registered at Ambhora Police Station, Tal. Ashti, District Beed and case bearing R.C.C. No. 24 of 2019 pending on the file of learned Judicial Magistrate First Class, Ashti, District Beed are hereby quashed and set aside to the extent of applicant Nos. 3 to 7.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)