

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

CRIMINAL APPLICATION NO. 3551 OF 2022

1. Gopalsing Devichand Dhavaliya
(withdrawn vide order dt. 19/10/2022)

2. Devichand Rupchand Dhavaliya

3. Suganadevi Devichand Dhavaliya

4. Omkar Devichand Dhavaliya

5. Seema Bhaulal Surve

6. Yogita Gajanan Wayal

7. Rajendra Ramchandra Banswal

..APPLICANTS

VERSUS

1. State of Maharashtra

2. Sarita Gopalsing Dhavaliya

..RESPONDENTS

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Mr. G.A. Kulkarni, Advocate h/f Mr. M.P. Bhaskar, Advocate for applicants

Mr. N.T. Bhagat, A.P.P. for respondent no.1 – State

Mr. J.S. Jain, Advocate h/f Mr. T.Y. Sayyed, Advocate for respondent no.2

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**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ**

DATE : 14th JULY, 2023

PER COURT :

1. This application, under Section 482 of Code of Criminal Procedure, has been filed for quashment of First Information Report ('F.I.R.'), being Crime No. 290 of 2022 registered with Tembhurni Police Station, Dist. Jalna for the offences punishable under Section 498-A, 323, 504 and 506 of

the Indian Penal Code ('I.P.C.') and consequential Charge-sheet No. 157 of 2022 filed before J.M.F.C., Jafrabad.

2. Heard.

3. Learned A.P.P. and learned counsel for Respondent No.2 – wife would submit that averments in the F.I.R. and statements of relations of Respondent No.2 – wife prima facie make out a case to proceed against the applicants for offence punishable under Section 498-A of the I.P.C. They took us through the F.I.R. and those statements to ultimately urge for rejection of the application.

4. Admittedly, Respondent No.2 – wife married co-accused – Gopalsing in May 2010. She was blessed with a baby girl. It has been averred in the F.I.R. that present applicants and husband would harass and ill-treat her for one or the other reason. Ultimately on 04th May, 2017, all the in-laws first assaulted her and then driven out of the matrimonial home alongwith her daughter with a demand of Rs.2 lakhs for purchase of a jeep. Since then she has been residing at her parental home.

5. The applicants before this Court are the parents, brother and married sisters-in-law. Even maternal uncle of the husband has not been

spared. Close reading of the F.I.R. indicates the allegations are general, vague and omnibus. No particular incident of ill-treatment has been averred in the F.I.R. The F.I.R. has been lodged five and half years after Respondent No.2 – wife was allegedly driven out of her matrimonial home. Admittedly, she filed an application under Section 12 of Protection of Women from Domestic Violence Act, 2005 in the year 2017 itself. A copy of the said application is on record. We have closely perused the same to find there are no averments of having been harassed and ill-treated in connection with demand of Rs.2 lakhs for purchase of a jeep. Moreover, in paragraph no.9 of the said application, it has been averred that the husband alone had beaten her up and driven out of the home, while in the F.I.R. the allegation has been levelled against all the applicants herein.

6. In our view, these averments in the F.I.R. are necessarily afterthought. Since averments in the F.I.R. being general, vague and omnibus, it would therefore be an abuse of process of Court if the applicants are directed to stand trial based on such material. We are, therefore, inclined to allow the application.

7. In view of above, criminal application is allowed in terms of prayer clause (B) so far as Applicant Nos. 2 to 7 are concerned. Since no typed copy of the F.I.R. was furnished, learned counsel for the applicant to pay a cost of

Rs.10,000/- (Rupees Ten Thousand) with the Office of Government Pleader, High Court, Aurangabad towards E-Library, within a week. Bank account details of the same are as under :-

Name : Establishment Officer, Office of Government Pleader,
High Court, Aurangabad
A/c No.: 62002338300
Bank : State Bank of India
Branch : High Court, Aurangabad
IFSC : SBIN0020997

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

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