



This order is corrected as per the order of speaking to the minutes dated 20th December, 2023.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

1029 CRIMINAL APPLICATION NO.3604 OF 2022

- 1) Sandip Vijaykumar Biradar.
- 2) Vijaykumar Shankarappa Biradar.
- 3) Arunabai W/o Vijaykumar Biradar.
- 4) Sangeeta W/o Sharanappa Hossadodde.
- 5) Sharanappa Hossadodde. **... Applicants**

Versus

- 1) The State of Maharashtra.
- 2) Pratibha W/o Sandip Biradar. **... Respondents**

...

Advocate for Applicants : Mr. Krishna P. Rodge.

APP for Respondent/State: Mr. V. K. Kotecha.

Advocate for Respondent No.2 : Mr. Chandrakant D. Biradar.

...

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

DATE : 30th November, 2023.

Per Court:

. Heard.

2 This application has been filed for quashment of FIR and consequential charge-sheet in R.C.C. No.260 of 2022, pending in the Court of learned **Judicial Magistrate First Class, Mukhed**, for the offences punishable under Sections 498-A, 323, 504 and 506 read

with 34 of the Indian Penal Code.

3 The application of applicant No.1 was already disposed of as withdrawn.

4 What can be gathered from the FIR dated 24th August, 2022 is that the informant / respondent No.2 married co-accused Sandip in May, 2014. Her parents spent a lot for the marriage. The couple is blessed with a boy of seven years old. The informant was treated well for about two months of the marriage. Thereafter, the husband (co-accused) and in-laws, namely parents-in-laws, sister-in-law and her husband and even their daughter (applicants before us, except niece) were harassing and ill-treating her. It has further been averred that the informant was starved so as to coerce her to meet the unlawful demand of Rs.5,00,000/- for purchasing four wheeler. It has further been averred that the husband (co-accused) used to beat her. He used to give her burns with incense stick. Therefore, her father has once paid him a sum of Rs.1,00,000/- by depositing the same in his bank account. What has been specifically alleged against applicant Nos.2 to 5 is that they used to instigate the co-accused Sandip to harass and ill-treat the informant.

5 On the same lines, are the statements of the relations of respondent No.2 (wife).

6 The learned counsel for applicants would submit that the allegations in the FIR are general, vague and omnibus. No specific incident of ill-treatment or harassment has been averred. According to him, what has been alleged is against the husband. The husband's application is already withdrawn. He, therefore, urged for grant of the application.

7 The learned APP and the learned counsel for respondent No.2 would, on the other hand, submit that the FIR is replete with allegations of ill-treatment. When it was an everyday affair, the informant was not expected to mention in the FIR the specific incident of harassment and ill-treatment. According to them, no mini trial can be conducted in this proceeding. Affidavit-in-reply has also been placed on record alongwith some documents indicating inappropriate messages to have been sent by the husband to the respondent/wife. Both of them, therefore, urged for rejection of the application.

8 Considered the submissions advanced. Perused the FIR and the related police papers and also gone through the affidavit-in-reply and the documents filed in support thereof.

9 Close reading of the FIR indicates that no specific incident of harassment and ill-treatment at the hands of applicant Nos.2 to 5

has been averred in the FIR. It appears that the wife has grievance against her husband, who used to assault her and give burns. His application has already been withdrawn. Applicant Nos.2 to 5 have not been attributed with any overt act, such as assault. What has been averred is that applicant Nos.2 to 5 used to instigate the husband of respondent No.2 to ill-treat her. Since no specific incident of such instigation or harassment and ill-treatment has been related in the FIR, in our view, directing applicant Nos.2 to 5 to stand trial would be an abuse of process of Court. We are, therefore, inclined to allow the application to the extent of applicant Nos.2 to 5. The application is therefore, allowed in terms of prayer clauses (B) and (B-1) to the extent of applicant Nos.2 to 5 only.

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[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]