

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

CRIMINAL APPLICATION NO.3600 OF 2022

Maruti s/o Satwaji Hanmantkar & ors. ... **APPLICANTS**

VERSUS

The State of Maharashtra & anr. ... **RESPONDENTS**

.....
Mr. Gajanan G. Kadam, Advocate for applicants
Mr. P.G. Borade, A.P.P. for respondent No.1.
Mr. K.A. Ingale, Advocate for respondent No.2.
.....

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

DATE : 13th JANUARY, 2023

P.C. :

This is an application under Section 482 of the Code of Criminal Procedure to quash the First Information Report, being No.334/2022, registered with Police Station Hingoli (City) for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2. Heard learned counsel for the applicants, learned A.P.P. for respondent No.1 State and learned counsel for respondent No.2. We have perused the record and considered the submissions advanced by learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the First Information Report lodged by the respondent No.2, claiming to be the legally wedded wife of the applicant No.1 Maruti. The respondent No.2 has alleged that, she was married to applicant No.1 on 4/1/2010 and that she has a 11 year old son. She has stated that the applicant No.1 had not disclosed that he was already married. She has stated that, the applicant No.1 and his family members subjected her to cruelty and hence she has lodged the First Information Report. She claims that, the dispute was amicably resolved and that the applicant No.1 had instructed her to make a statement before the Court that she was not his legally wedded wife. She states that, after dismissal of the previous case, the applicants once again started harassing her. She has alleged that, on 7/4/2018, she was driven out of the house and that she has lodged a complaint in that regard. She lodged the report dated 12/8/2022 alleging that the applicants had subjected her to cruelty from 22/7/2013 to 7/8/2018.

4. A perusal of the First Information Report reveals that the respondent No.2 has made omnibus allegations against the applicants that they had subjected her to cruelty, without attributing specific role to any of the applicants. The allegations

made in the First Information Report even if considered at face value, do not reveal that the applicants have subjected the respondent No.2 to cruelty within the meaning of Section 498-A of the Indian Penal Code.

5. It is further to be noted that, the respondent No.2 had earlier filed complaint against the applicant No.1 and his family members, pursuant to which Crime No.225/2011 was registered, which culminated in R.C.C. No.912/2011. The judgment dated 25/9/2013 in R.C.C. No.912/2011 reveals that the respondent No.2 herein had denied that she was married to the applicant No.1. She had also denied that the applicants had subjected her to cruelty. She had not supported the case of the prosecution and as a result, the applicants who were accused in the said case, were acquitted.

6. The respondent No.2 had also lodged another report against these applicants, pursuant to which Crime No.87/2018 came to be registered at Bhagya Nagar Police Station, Nanded. In the said report, she had alleged that, she was driven out of the house on 7/4/2018. Pursuant to the application under Section 482 of the Code of Criminal Procedure filed by applicants No.2 to 5 herein, the said crime was quashed as against them.

7. The record further reveals that the applicant No.1 has filed a civil suit to restrain the respondent No.2 and her sister and brother-in-law from entering the house and that an order of temporary injunction is operating against the respondent No.2. The record reveals that, the respondent No.2 herself stated that she is not residing in the matrimonial home since the year 2018.

8. Apart from the fact that the accusations made in the F.I.R. do not constitute any offence, there are other circumstances appearing on record which would indicate that the lodging of F.I.R. is actuated with malafides. Present case, therefore, is squarely covered by illustrations 1, 3 and 7 given by the Hon'ble Apex Court in the case of **State of Haryana & ors. Vs. Ch. Bhajan Lal [AIR 1992 SC 604]**, which are reproduced hereunder :

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) x x x x x x x x

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission

of any offence and make out a case against the accused.

(4) to (6) x x x x x x x x

(7) Where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

9. Hence, we are of the view that continuance of criminal proceedings will be sheer abuse of the process of law. Under the circumstances, the Criminal Application is allowed. The First Information Report bearing Crime No.334/2022, registered with Police Station Hingoli (City) for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code is quashed.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

fmp/-