

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3686 OF 2022

1. Pravin S/o Kalidas Sarvade

2. Ranjit S/o Kalidas Sarvade

.. Applicants

(Ori. Accused no.2 and 3)

Versus

1. The State of Maharashtra
Through Police Inspector,
Sonpeth Police Station,
Tq. Sonpeth, Dist. Parbhani

2. Pratima W/o Sumit Sarvade

.. Respondents

...
Advocate for the applicants : Mr. Rajkumar B. Dhaware
APP for the respondent – State : Mr. M.M. Nerlikar
Advocate for the respondent no. 2 : Mr. Govind B. Chate
...

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

DATE : 30 MARCH 2023

ORDE (MANGESH S. PATIL, J.) :

Heard both the sides.

2. The applicants are seeking quashment of crime no. 282 of 2022 registered with Sonpeth Police Station, District – Parbhani for the offences punishable under section 498A, 323, 504, 506 r/w. 34 of the Indian Penal Code and the consequent criminal case bearing R.C.C. no. 137 of 2022 pending before the Judicial Magistrate First Class, Sonpeth, District – Parbhani.

3. The FIR has been lodged after 1-1/2 years of marriage stating that after initial peaceful 4 months, the respondent no. 2 was subjected to ill-treatment, she was made to drink water from a tank and she was being blamed for being infertile. There was demand of money for setting up a grocery shop and on that count, she was subjected to cruelty by all the persons named therein which includes the present applicants.

4. The applicants happen to be the cousins of the husband. Rest of the accused persons are not before us.

5. Applying the parameters pursuant to the observations of the Supreme Court in the matter of ***Kahkashan Kausar @ Sonam and others Vs. State of Bihar and others; (2022) 6 SCC 599*** particularly in paragraph no. 17 and 18, in our considered view, this is yet another instance demonstrating that relatives of the husband are roped in based on the omnibus and vague allegations. Not only the FIR but even the statements of the witnesses who are from the parental side of the respondent no. 2, are same in verbatim as far as the role played by each of them. Rather, they have been collectively named in the allegations regarding the demand and the cruelty. Such collective reference to all the accused including the applicants clearly demonstrates that no specific and exclusive role is attributable to the

applicants in either raising the demand or subjecting the respondent no. 2 to cruelty.

6. It would be an abuse of the process of law if the applicants are made to face the prosecution.

7. The application is allowed.

8. Crime no. 282 of 2022 registered with Sonpeth Police Station, District – Parbhani for the offences punishable under section 498A, 323, 504, 506 r/w. 34 of the Indian Penal Code and the consequent criminal case bearing R.C.C. no. 137 of 2022 pending before the Judicial Magistrate First Class, Sonpeth, District – Parbhani are quashed and set aside to the extent of the applicants.

9. Mr. Govind Chate, Advocate was appointed to represent respondent no. 2 by this Court. We quantify his fees at Rs.3000/- (Three Thousand).

[ABHAY S. WAGHWASE]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/