

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

931 CRIMINAL APPLICATION NO. 3737 OF 2022

**BALAJI S/O DATTATRAYA KAMALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicants : Mr. Yogesh B. Bolkar
APP for Respondent No.1-State : Mr. R. D. Sanap
Advocate for Respondent No.2 : Mr. S. B. Bhosale (appointed)

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

DATE : 28 FEBRUARY 2023

PER COURT :-

1. Considering that the proceedings were arising from the matrimonial dispute, both the parties were referred for mediation. The Mediator has submitted a report which indicates that the mediation has failed.
2. Learned counsel for the applicants seeks leave to amend the prayer clause as to incorporate the R.C.C. number.
3. Leave granted. Amendment be carried out forthwith.
4. With consent, heard finally at the admission stage.

5. This is an application under Section 482 of the Code of Criminal Procedure (Cr.P.C.) to quash the FIR No.381 of 2022 registered with Chakur Police Station, District Latur and the R.C.C.No. 1/2023 pending on the file of learned JMFC, Chakur for the offences punishable under Sections 498-A, 323, 504 r/w 34 of the Indian Penal Code (IPC).

6. Learned counsel for the applicants states that the application on behalf of the husband and father-in-law has been withdrawn. He submits that allegations against applicant nos. 3 to 6 do not constitute any cognizable offence. He further submits that these applicants were not residing in the matrimonial home of respondent no.2 and they have been unnecessarily dragged into the litigation.

7. Per contra, learned counsel for respondent no.2 states that there are specific allegations against these applicants and that the FIR indicates that these applicants had driven respondent no.2 out of the matrimonial house.

8. We have perused the records and considered the submissions advanced by learned counsel for the applicants, learned APP for the State and learned counsel for respondent no.2. The only question for our consideration is whether the FIR and the other material on record reveals any cognizable offence as alleged against these applicants.

9. The records reveal that marriage of respondent no.2 and applicant no.1 was solemnized on 11.02.2018. The FIR reveals that respondent no.2 lived in the matrimonial home at Shirur Tajband for about four months and thereafter she joined her husband at Sangola. She states that in the month of November 2018 her husband was promoted and transferred at Ahmedpur and as such, she started living with her husband and parents-in-law at Shirur Tajband. She has alleged that her mother-in-law used to constantly complain that she could not do household work and used to taunt and abuse her. She states that applicant no.1 would also abuse and assault her whenever she complained to him about the behaviour of his parents. She has also alleged that applicant no.3, who is a brother-in-law, used to abuse her and subject her to mental cruelty. Subsequently, her husband was transferred to Solapur. However, he did not take her alongwith him. Her mother-in-law was suffering from cancer. She has stated that her husband and his family members had demanded Rs.4,00,000/- for treatment of her mother-in-law. She states that the applicants had subjected her to cruelty since she was unable to pay the said amount. Her mother-in-law expired on 05.07.2021. She claims that on 03.08.2021, these applicants and the other co-accused abused her by saying that her mother-in-law would have survived if she were to bring Rs.4,00,000/- for her treatment. She claims that she was abused, assaulted and thrown out of the house. She left the matrimonial house on 03.08.2021.

10. The records reveal that applicant no.1 had filed a divorce proceeding against respondent no.2 on 28.09.2022. It was only after filing of the divorce proceedings that respondent no.2 lodged the FIR on 22.10.2022 and also filed maintenance proceedings in the month of November, 2022. The FIR itself reveals that applicant no.3, who is brother-in-law of respondent no.2, was serving at Aurangabad. He was not residing in the matrimonial home alongwith respondent no.2 and her husband, but was staying at his workplace at Aurangabad and subsequently at Hyderabad. Similarly, applicant No.4 is the cousin and applicant nos.5 and 6 are the sisters of mother-in-law of respondent no.2. These applicants were also not living in the matrimonial home of respondent no.2, but are residing at Latur and Salewada, Andhra Pradesh, respectively. Apart from the omnibus statement that these applicants had also subjected her to cruelty whenever they came to her matrimonial home, there are no specific allegations to indicate that these respondents were involved in subjecting respondent no.2 to cruelty, within the meaning of clauses (a) and (b) to the explanation to Section 498-A of IPC.

11. Having gone through the record, in our considered view, these applicants i.e. applicant nos. 3 to 6 have been unnecessarily dragged into the matrimonial dispute. In such circumstances, compelling these applicants to face criminal trial on the basis of unfounded allegations would be an abuse of the process of the Court. The case is squarely covered by categories 1 and 3

laid down by the Hon'ble Apex Court in the case of **State of Haryana and others v. Ch. Bhajan Lal and others [AIR 1992 SC 604]** and hence, in our considered view, this is a fit case to exercise the inherent powers under Section 482 of Cr.P.C. to prevent abuse of the process of law. In the result, the application is allowed in terms of prayer clause (A). Consequent thereof, the FIR bearing C.R. No. 381 of 2022 registered with Chakur Police Station, District Latur and the R.C.C. No. 1/2023 pending on the file of learned JMFC, Chakur stand quashed *qua* the applicant nos. 3 to 6. The criminal application is accordingly disposed off.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

VRE