

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3755 OF 2022

1. Rajesh Bhalerao Patil (withdrawn)
2. Sumanbai w/o Bhalerao Patil
3. Sunita w/o Prakash Patil
4. Prakash s/o Bhalerao Patil ...Applicants

versus

1. The State of Maharashtra
2. Sau. Kavita w/o Rajesh Patil ...Respondents

.....
Mr. Naseem R. Shaikh, advocate for the applicants
Mr. A.R. Kale, A.P.P. for respondent No.1
Mr. S.D. Jaybhar, advocate for respondent No.2
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**CORAM : R. G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 28th JUNE, 2023.**

PER COURT :-

1. The learned advocate for the applicants, on instructions, withdraws the application of applicant No.1, husband.

2. Heard.

3. This is an application for quashment of F.I.R. No. I/81 of 2022 registered with Bhadgaon police station, District Jalgaon for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. and the consequential proceeding R.C.C. No. 79 of 2022 pending in the court of J.M.F.C. Bhadgaon.

4. The applicants before the Court are mother-in-law, brother-in-law and sister-in-law of the informant. The F.I.R. has been lodged on 4.6.2022. What can be gathered from the F.I.R. is that the informant has parental house at Bhadgaon, district Jalgaon while the applicants hail from State of Madhya Pradesh. The informant married co-accused Rajesh way back in the year 1996. The couple is blessed with two grown up children. According to the informant, she was treated well for first three years after her marriage. Thereafter, the husband and other in-laws started asking her to fetch Rs.10,00,000/- from her parents for construction of house. It has further been alleged that she was beaten, starved and driven out of matrimonial home just two months before lodging of the F.I.R. The cause of action for lodging the F.I.R. is incident dated 15.4.2022. It is alleged that on the said date all applicants had come from Madhya Pradesh to Bhadgaon. They insisted the mother and brother of the informant to pay them Rs.10,00,000/-. They made demand. When the informant told them that her parents have no money, the husband Rajesh assaulted the informant while others abused her in filthy language. The neighbours intervened and separated the families. The informant thereafter, approached the Women Redressal Grievance Cell, Jalgaon and reported the matter.

5. The learned A.P.P. and the learned advocate for the informant would submit that the averments in the F.I.R. make out case to

proceed against the applicants. According to them, there are statements of independent witnesses, who have intervened in the quarrel that took place on 15.4.2022. The learned advocate relies on the judgment of the Apex Court in the case of ***State of Odisha vs. Pratima Mohanty Etc. (AIR 2022 SC 41)***. Relying on the said judgment, the learned advocate would submit that no mini trial is permissible in the proceeding under Section 482 of Cr.P.C. He therefore, urged for rejection of the application.

6. Perused the F.I.R. and the relevant police papers. The marriage of the informant took place way back in the year 1996. The couple is blessed with two grown up children. They have been residing with the applicants. Their statements have not been recorded. According to the informant, she was treated well for three years of marriage and thereafter ill-treatment in relation to demand of Rs.10,00,000/- started. It is just illogical to imagine that the applicants had continued to ill-treat her since 1999 to until two months before registration of the F.I.R. over the same reason i.e. demand of Rs.10,00,000/- for construction of house. The incident dated 15.4.2022 is the cause of action for filing of the F.I.R. True, there are statements of witnesses reinforcing the said incident. Those witnesses are from parental side of the informant. Admittedly, there was exchange of notices between the parties. The husband had issued notice calling upon the respondent/wife to resume cohabitation. The reply to the notice was given even before

15.4.2022. Had the incident dated 15.4.2022 taken place, it would have been reflected in the notice reply. Notice reply conspicuously silent to state that the applicants would harass her in connection with demand of Rs.10,00,000/-.

7. In the circumstances, particularly vague and omnibus allegations in the F.I.R. and there being no reference thereto in the notice reply that preceded filing of the F.I.R., we find it appropriate in the interest of justice, to allow the present application. Hence, the criminal application is allowed in terms of prayer clause "a" to the extent of applicant Nos. 2 to 4.

(SANJAY A. DESHMUKH, J.)

(R. G. AVACHAT, J.)

rlj/