

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

CRIMINAL APPLICATION NO.2980 OF 2021

1. Santosh S/o. Ramrao Patil,
Age : 36 years, Occ : Service,
2. Mohini W/o. Santosh Patil,
Age : 29 years, Occ: Household,

Both of resident of – at post Jawalga
(Ramling), Taluka – Deoni, District-Latur

...Applicants

Versus

1. The State of Maharashtra
Through Officer-in-charge of Police Station
Deoni, Taluka-Deoni,
District-Latur
2. Pooja W/o. Ganesh Karbhari,
Age : 21 years, Occ: Household,
Resident of – at post – Kawthala,
Taluka – Deoni, District – Latur.

...Respondents

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Mr. Dnyaneshwar Gaikwad, Advocate for the Applicants.
Mr. S.D. Ghayal, APP, for the Respondent – State.
Mr. P.S. Magar, Advocate for Respondent No. 2.

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

DATE : JANUARY 03, 2023

PER COURT :

1. With consent of learned Counsel appearing for
respective parties, matter is heard finally at the
stage of admission.

2. This is an application under Section 482 of Code of Criminal Procedure, 1973 for quashing the FIR bearing no. 323/2021 dated 19.11.2021 registered with Deoni Police Station for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860 and consequential proceedings being charge-sheet no. 05/2021 (R.C.C. No. 4/2022) pending on the file of learned JMFC, Deoni, District Latur.

3. We have perused the record and considered the submissions advanced by learned Counsel appearing for respective parties.

4. The aforesaid crime was registered pursuant to the first information report lodged by Respondent No. 2 – Complainant. The applicant no. 2 is the married sister-in-law of the Respondent no.2. The marriage between Respondent No.2 and the brother of Applicant no.2 was solemnized on 31.05.2019. Respondent no.2 has alleged that she was treated well for about a month and that on 31.06.2019 her husband, mother-in-law and brother-in-law abused and assaulted her. They demanded that her father should transfer 2 acres of land in the name of her husband. Respondent

no. 2 further alleged that on 20.12.2019 her father transferred 2 acres of land in the name of her husband. She stated that even after transfer of the land, on 05.01.2020 her husband, mother-in-law and brother-in-law harassed her. She also stated that applicants herein were present when she was being harassed by her husband and in-laws and these applicants too had abused and assaulted her and subjected her to physical and mental cruelty. It is further alleged that on 25.11.2020 all the family members of her husband abused her and assaulted her. There is specific allegations against her husband that he tried to electrocute her.

5. Having considered the submissions of the learned counsel for the Applicants and Respondents, the question for our consideration is whether the allegations made in the F.I.R., even if taken at face value and accepted in entirety, *prima facie* constitute offence alleged against the applicants. Before we delve into the nature of allegations made, it would be advantageous to refer to the latest judgment of Apex Court in case of ***Kahkashan Kausar alias Sonam and Others Vs. State of Bihar and Others, (2022) 6 SCC 599,***

wherein the Hon'ble Supreme Court has observed that...*"incorporation of Section 498-A of I.P.C. was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid state intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as 498-A I.P.C. as instruments to settle personal scores against the husband and his relatives."* The Apex Court, upon considering the previous judgments relating to quashment of F.I.R. in respect of offence punishable under Section 498-A of the I.P.C. has observed in paragraph no.17 thus,-

"17. ... this Court has at numerous instances expressed concern over the misuse of Section 498-A I.P.C. and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of

matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them."

6. Perusal of the first information report *prima facie* reveals that accusations of demand of dowry and ill-treatment for not meeting the said demand are mainly alleged against her husband and in-laws. The first information report does not indicate that these applicants demanded dowry or they had subjected her to ill-treatment for not meeting unlawful demand of applicants. The allegations made in the first information report, even if taken at its face value against these applicants, do not constitute offence under Section 498-A of IPC. In the absence of such allegations, allowing trial to proceed against these applicants would be sheer abuse of process of law.

7. Hence, the application is allowed in terms of prayer clause 'C' and 'C-A'. As a consequence thereof, the FIR bearing no.323/2021 dated 19.11.2021 registered with Deoni Police Station for the offences punishable under Sections 498-A, 323, 504, 506 read with Section

34 of the Indian Penal Code, 1860 and consequential proceedings being charge-sheet no. 05/2021 (R.C.C. No. 4/2022) pending on the file of learned JMFC, Deoni, District Latur stands quashed and set aside *qua* present applicants.

(R.M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J)