



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

102 CRIMINAL APPLICATION NO.4000 OF 2022

1. Swapnil s/o Subhash Hatkar (withdrawn)
2. Surekha w/o Subhash Hatkar
3. Subhash s/o Narayan Hatkar
4. Abhishek @ Abhay s/o Subhash Hatkar
5. Tejaswini d/o Subhash Hatkar ...Applicants

versus

1. The State of Maharashtra
2. Anuja w/o Swapnil Hatkar ...Respondents

...
Advocate for Applicants : Mr. Shinde Dhananjay M.
APP for Respondent No.1: Ms. Rani R. Tandale
Advocate for Respondents : Mr. S.P. Katneshwarkar
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**CORAM : R. G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 4th DECEMBER, 2023.**

PER COURT :-

Learned advocate for the applicants, on instructions,
withdraws the application of applicant No.1-husband.

2. Heard.

3. This application has been filed for quashment of F.I.R. No. 392 of 2022 registered with Basmat Police Station, district Hingoli for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C., consequential charge sheet in the R.C.C. No. 75 of 2023

pending before the learned J.M.F.C. Basmatnagar, District Hingoli.

4. What can be gathered from the F.I.R. and the relevant police papers is that respondent No.2 (wife) married co-accused Swapnil on 27.10.2020. After marriage, she started residing at her matrimonial home alongwith her husband and the parents in law, brother and sister in laws (applicants herein). She was treated well for a period of initial two months of the marriage. The husband however, thereafter started ill-treating her for one or the other reason. He used to ask her to fetch Rs.1,00,000/- from her parents for purchase of motor bike. When she expressed her inability to fetch the said amount, the present applicants would take side of the husband. What has been alleged against the present applicants is that they used to instigate Swapnil to harass and ill-treat respondent No.2. She was also harassed and ill-treated on account that the marriage to have not been solemnized as per their expectations or they were not duly honoured therein. She had related about the ill-treatment to her parents and brother as well. They had reasoned with Swapnil and his relations, but in vain.

5. It has been further averred that the husband took a room on rent, at Basmat. Respondent No.2 started residing there. The husband used to shuttle between Nanded and Basmat. During their stay at Basmat, the husband would continue to ill-treat her. The present applicants would visit Basmat to meet Swapnil. During those

visits, they used to instigate him to ill-treat her. It has further been alleged that husband had starved her many times and lastly in May, 2022, he left the house for 15 days. He was contacted on phone. He asked her to bring a sum of Rs.1,00,000/- from her parents.

6. On the same lines are the statements of relations of respondent No.2.

7. Learned advocate for the applicants submits that the averments/allegations in the F.I.R. are general, vague and omnibus. Not a single incident of harassment or ill-treatment is specifically quoted in the F.I.R. According to him, asking the applicants to face trial based on such material would be an abuse of process of Court. He therefore, urged for grant of application.

8. Learned advocate for respondent No.2, would on the other hand, submit that the F.I.R. itself is replete with allegations of ill-treatment and therefore, no specific incident of harassment finds place in the F.I.R.. According to him, when the informant was staying with Swapnil at Basmat, the present applicants used to visit them and during those visits, they used to instigate the husband (Swapnil) to ill-treat respondent No.2. According to him, no mini trial can be conducted in this proceeding. The statements of relations of respondent No.2 are reinforcing the averments in the F.I.R. He ultimately urged for rejection of application.

9. Learned A.P.P. reiterates the submissions made by learned advocate for respondent No.2.

10. Considered the submissions advanced. Perused the F.I.R. and the relevant papers of investigation.

11. Respondent No.2 married co-accused Swapnil in October, 2020. The marriage expenditure was born by her parents. On marriage, she started residing at her matrimonial home alongwith the present applicants and her husband. She was treated well for a period two months of the marriage. Thereafter, she was abused and insulted for one or the other reason. It was the husband, who used to ask respondent No.2 to fetch an amount of Rs.1,00,000/- from her parents for purchase of motor bike. When she expressed her inability to meet the demand, all the applicants would take side of husband. They too were asking the informant to fetch the amount from her parents. It was the husband who had assaulted and abused. She was also ill-treated on account of the applicants to not have been duly honoured in the marriage. Admittedly, both respondent No.2 and her husband, therefore, took a room on rent at Basmat. Husband-Swapnil used to shuttle between Basmat and Nanded. During their stay at Basmat, the present applicants used to visit them and allegedly harass and ill-treat her. She was even starved.

12. Close reading of the F.I.R. and the relevant papers indicate that if this was so, the informant could have narrated at least single incident with specific details thereof, such as the day, date and time on which the present applicants had ill-treated her and the manner thereof. Although the applicants have been alleged to have ill-treated and harassed her, the allegations are general, vague and omnibus. Asking the applicants to face the trial based on such material would, in our view, be an abuse of process of Court. We are therefore, inclined to allow the application.

13. The application therefore succeeds and the same is allowed in terms of prayer clause "B" and "C-1" to the extent of applicant Nos. 2 to 5.

(SANJAY A. DESHMUKH, J.)

(R. G. AVACHAT, J.)

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