

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO.4052 OF 2022

1. Shaikh Shakil Shaikh Rahim.
 2. Mahemuda Begum Rahim Shaikh.
 3. Shaikh Ayesha Abdul Rahim
(Name in FIR : Shaikh Ayesha Sk. Rahim).
 4. Shaikh Usama Shaikh Abdul Rahim.
(Name in FIR : Shaikh Osama @
Usama Sk. Rahim.)
- ... Applicants

Versus

1. The State of Maharashtra.
 2. Shaikh Almas Shaikh Shakil (Real name is
Almasbegum Shaikh Maheboob Atar).
- ... Respondents

...
Mr. Vilas P. Savant, Advocate for Applicants.
R. B. Bagul, APP for Respondent No.1 /State.
Mr. Sudarshan J. Salunke, Advocate for Respondent No.2.

CORAM : R. G. AVACHAT and
SANJAY A. DESHMUKH, JJ.

DATE : 14th July, 2023.

ORDER: (Per Sanjay A. Deshmukh, J.)

- 1 Heard the learned advocates for the respective parties.
- 2 This is an application under Section 482 of the Code of
Criminal Procedure, 1973, for quashing the charge-sheet bearing

No.01 of 2022 and the criminal proceedings bearing R.C.C. No.310 of 2022, pending before the learned Judicial Magistrate First Class, Georai initiated on the basis of Crime No.189 of 2022 registered at Georai Police Station, District Beed, for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code, 1860.

3 The learned counsel for the applicants, on instructions, withdrew the application of applicant No.1 / husband of the respondent / informant.

4 Applicant No.1 is the husband of informant. Applicant No.2 is the mother-in-law of the informant. Applicant No.3 is the sister-in-law of the informant and applicant No.4 is the brother-in-law of the informant.

5 It is averred in the report that the marriage of the informant was performed with applicant No.1 on 20th March, 2019. Initially, she was treated well. Thereafter, all the accused demanded her Rs.10,00,000/- for purchasing a plot. They used to beat her by fists and kicks blows by keeping her in a latched room. It is alleged that the incident of beating her took place on 9th March, 2022. She came to her parents' house and on 15th March, 2022 she went to the house of applicant No.1 for cohabitation alongwith some respected persons, but

all the accused insulted her and made demand of Rs.10,00,000/- and threaten them that they will cut their hands and legs into pieces. It is also averred that on 31st March, 2022, she gave complaint against the applicants to the Police Station Georai upon which N.C. No.227 of 2022 was registered. It is averred that on 5th April, 2022 she filed Miscellaneous Criminal Application No.221 of 2022 before the learned Judicial Magistrate First Class, Georai for giving direction under Section 156(3) of Cr.P.C. for registering crime against the applicants. By order dated 18th April, 2022, that miscellaneous application was allowed and the Georai Police Station authorities are directed to investigate the matter and proceed according to law. Accordingly, the police station Georai registered Crime No.189 of 2022 against the applicants on 20th April, 2022, for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code, 1860.

6 The learned counsel for the applicants submitted that false case is registered against the applicants. The general allegations of illegal demand of money and ill-treatment are made. No specific role is attributed to the applicants. The informant is having habit of harassing her husband and she had also harassed her earlier husband Maheboob Atar by filing M.C.A. No.259 of 2012. He submitted that essential ingredients of Section 498-A of the IPC are not establishing

from the report and charge-sheet. He lastly prayed to allow the application.

7 The learned APP for the State and the learned counsel for the informant pointed out the seizure *Panchanama* of pen-drive of video shooting and photographs about the incident of beating to informant dated 6th May, 2022, which shows that applicant No.1 was seen while beating to the informant. They submitted that there is, *prima-facie*, strong independent evidence against the applicants. Therefore, the application deserves to be dismissed.

8 Perused the charge-sheet.

9 As far as applicant Nos.2 to 4 are concerned, there are vague allegations of harassment and demand of Rs.10,00,000/- of general nature. No specific incident of overt act of applicant Nos.2 to 4 is pointed out. Considering these two aspects, it would not be legal and proper to proceed against these applicants for facing trial. It would be abuse of process of Court. Thus, to prevent the abuse of process of Court, the application deserves to be allowed in respect of applicant Nos.2 to 4. Hence, the following order:-

ORDER

- I. The application of applicant No.1 is disposed of as withdrawn.

II. The application is allowed in terms of prayer clause (B) to the extent of applicant Nos.2 to 4 only.

III. No costs.

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[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]