

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

93 CRIMINAL APPLICATION NO.4249 OF 2022

**HANUMANT KUNDLIK GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Advocate for Applicant : Mr.Jadhav Narsing Bankatrao

APP for Respondents/State : Mr.P.N.Kutti

Advocate for Respondent No. 2 : Mr.Jadhav Kailas B.

...

**CORAM : R. G. AVACHAT &
KISHORE C. SANT, JJ.**

DATE : 30.10.2023.

PER COURT :

1. Heard. This application has been filed for quashing and setting aside the impugned F.I.R. No. 95 of 2022 dated 10.02.2022 registered with Vivekanand Chowk Police Station, Latur, District Latur, under Sections 498-A, 323, 504 and 506 of the I.P.C. and upon which proceedings bearing RCC No. 467 of 2022 is pending before C.J.M. Latur against the applicant.

2. The applicant is husband of respondent No. 2. What can be gathered from the F.I.R. is that respondent No. 2 married with applicant on 19.11.2020. She was treated well for about two months of the marriage. The applicant thereafter started harassing and ill-treating her under influence of liquor. He would even suspect her character. It is further case of

respondent No. 2 that applicant had asked her to fetch Rs. 1,00,000/- from her parents to purchase a motor bike. She informed the same to her parents on phone. Her mother came to her. She took her to parents' house for some days. She came to matrimonial home along with her mother on 26.02.2021. Applicant abused both of them and refused to take them in the house. She therefore, approached to Police Station Barshi City, District Solapur and lodged report. It is further in the F.I.R. that respondent No. 2 wife preferred a complaint to the Woman's Redressal Grievance Cell, office the Superintendent of Police, Latur. The applicant was called there. He was intimated about her complaint, but he did not appear there. Therefore, crime came to be registered. Thereafter, on investigation of the Crime, charge-sheet came to be filed. The statements of relations of the respondent No. 2 are consistent with the F.I.R.

3. Heard the learned Advocate for the applicant. He submits that it was the second marriage of both applicant and respondent No. 2. A memorandum of understanding entered into between them on 09.11.2020 has been relied upon. Our attention has also been drawn to the N.C. registered on behalf of respondent No. 2, which suggests that had the applicant really

harassed and ill-treated respondent No. 2, in connection with unlawful demand of Rs. 1,00,000/-, a statement to that effect would have been there in the said report. The learned Advocate went on to say that the present FIR has been lodged afterthought. According to him no specific incident of harassment and ill-treatment in connection with the unlawful demand of money has been highlighted in the F.I.R.. He therefore, urged for grant of application.

4. The learned Advocate for Respondent No. 2 and the learned APP, on the other hand submit that applicant and respondent No. 2 co-habited in marriage like relationship. The F.I.R. is replete with the allegations against the applicant about illtreatment and harassment in connection with demand of Rs. 1,00,000/-. The allegations in the F.I.R. got reinforced by registration of N.C. in relation to the incident dated 26.02.2021. The applicant is to face trial based on the averments in the F.I.R. He therefore, urged for rejection of the application.

5. Heard the submissions of the Advocates, perused the F.I.R. and related documents. It is the second marriage of both applicant and respondent No. 2. They were residing as husband and wife. It is specifically averred in the F.I.R. that she married

applicant on 19.11.2020. The applicant was gainfully employed. He was a Laboratory Assistant. He is alleged to have made demand of Rs. 1,00,000/- for purchase of motor bike. The F.I.R. is conspicuously silent as to when the applicant had made such a demand and harassed and ill-treated her. So far as regards that the incident dated 26.02.2021 is concerned, it is averred that the applicant had abused respondent No. 2 and her mother and not allowed them to enter his residence. Had the applicant really made illegal demand of money and harassed and ill-treated respondent No. 2, the averments to that effect would have been in the report dated 26.02.2021. We therefore, have a reason to observe that the averments in the F.I.R. are afterthought. Moreover, the averments/allegations in the F.I.R. are omnibus in nature. Directing the applicant to face trial on such material, would be an abuse of process of the Court. Therefore, we are inclined to allow the application. The applicant thus, succeeds in terms of prayer Clause 'C'.

(KISHORE C. SANT)
JUDGE

(R. G. AVACHAT)
JUDGE

mahajansb/