

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

CRIMINAL APPLICATION NO.4278 OF 2022

Chaitanya Kishor Konde & ors. ... APPLICANTS

VERSUS

The State of Maharashtra & anr. ... RESPONDENTS

.....
Mr. H.P. Randhir, Advocate for applicants
Mrs. V.N. Patil Jadhav, A.P.P. for respondent No.1.
Mr. R.S. Devdhe, Advocate for respondent No.2.
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**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.**

DATE : 14th SEPTEMBER, 2023

ORDER (PER SANJAY A. DESHMUKH, J.) :

This application has already been disposed of as withdrawn so far as applicant No.1 – husband of respondent No.2 vide order dated 15/3/2023.

2. This is an application for quashment of the F.I.R. bearing No.345/2022, registered at Pahur Police Station, Taluka Jamner, District Jalgaon for the offences punishable under Sections 498(A), 323, 504, 506 read with Section 34 of the Indian Penal Code.

3. The respondent No.2 averred in the report that, her marriage was performed with the applicant No.1, son of applicants No.2 and 3 on 24/4/2022. After some days, she was treated with cruelty by demanding Rs.5 Lakhs. She was harassed and threatened to kill by putting her on the gas stove. Her husband used to show pornography clips and demand unnatural sexual intercourse with her. The applicant No.3 used to see towards her with bad intention and harass her. Therefore, she sent notice through her Advocate. Thereafter police called her and the applicants for compromising the matter on 14/9/2022 at Pahur Police Station, but the compromise could not succeed. On the contrary, she was abused and threatened kill. Therefore, she lodged the report in the police station.

Thereafter she lodged the report against the husband and other applicants on 17/9/2022.

4. Learned Advocate for the applicants submitted that, all the allegations are omnibus and not specific. There is no prima facie evidence of cruelty. It is averred in the report that, her husband demanded Rs.5 Lakhs to her. There is no such cogent evidence. Therefore, he prayed for quashing the F.I.R.

5. Learned A.P.P. and learned counsel for respondent No.2 submit that there is strong prima facie evidence against the

applicants. Their names are mentioned in the report. They have treated the informant with cruelty by demanding Rs.5 Lakhs. Learned counsel for the respondent No.2 has relied on the decision of this Court at Principal Seat at Bombay in Criminal Writ Petition No.5067/2019 (Shafi Liyakat Kazi & ors. Vs. The State of Maharashtra & anr.), decided on 15/7/2022, and pointed out paragraph No.8, which reads thus :

“8. By reading of the F.I.R. it cannot be said that ingredients of Section 498A are absent. No absolute position of law is shown that if the relatives do not stay in the same house, or in the proximity, Section 498A of the Code is not attracted. The F.I.R. is not a case of a vague general statement of only naming all relatives. The F.I.R. assigns specific role to each of the petitioners and how their action indirectly and collectively reflected mental cruelty. In this case, there are specific assertions that cruelty was meted out even by petitioner Nos.4, 5 and 6 by instigating the other petitioners to meet out cruelty to respondent No.2 but from time to time calling them on telephone. F.I.R., as is held in various decisions, is not an encyclopaedia. We, therefore, find that this cannot be considered as an exceptional case for quashing the F.I.R. In light of the above discussion, these aspects will have to be considered at the time of trial, or if the petitioners apply for discharge.”

The learned counsel for respondent No.2 lastly prayed to reject the application.

6. Perused the charge sheet. There is no medical

evidence of alleged beating. The informant did not stay for more than one month in the matrimonial home. No doubt there is demand of Rs.5 Lakhs, but it was on the part of her husband. The role of other applicants is vaguely stated in the report. All these allegations are omnibus allegations. Considering all these facts, it will not be appropriate to compel the applicants to face the trial which would be abuse of process of the Court. The application, therefore deserves to be allowed so far as regards applicants No.2 to 10 are concerned. Hence, the application of applicants No.2 to 10 is allowed in terms of prayer clause (B).

7. The criminal application stands disposed of.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

fmp/-