

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

901 CRIMINAL APPLICATION NO.4325 OF 2022

- 1) Madhav Tukaram Patil.
- 2) Kamalbai W/o Madhavrao Patil.
- 3) Jayshree @ Bhagyashree W/o Amol Warad.
- 4) Vijayshree W/o Mahadev @ Madhav Zunze.
- 5) Bhagyashree W/o Sudheer Patil.

... Applicants

Versus

- 1) The State of Maharashtra.
- 2) Shubhangi W/o. Santosh Patil.

... Respondents

...
Mr. Bramhanand M. Dhanure, Advocate for Applicants.
Mr. S. N. Morampalle, APP for Respondent/State.
Mr. C. D. Biradar, Advocate for Respondent No.2.

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

DATE : 13th October, 2023.

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

. 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 of FIR and consequential proceedings in the charge-sheet, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860.

3 The informant averred in the report that she married with the co-accused on 14th July, 2010. The applicants were demanding Rs.10,00,000/- for contractorship. She could not beget the child, the applicants were taunting her by saying वाझोटी. Since 2014, she went to reside with her husband at Pune. There also, her husband demanded Rs.10,00,000/- for business of contractorship. On 10th June, 2022, the applicants and her husband threatened her that they will eliminate her if the demand of Rs.10,00,000/- is not complied with. Since then, she is residing in her parental house. Thereafter, she applied to the *Bharosa* Cell on 19th July, 2022. However, her husband and other relatives did not turn there. Therefore, she lodged the FIR.

4 The learned counsel for the applicants submitted that respondent No.2/informant was residing with her husband at Pune since 2014. All the applicants are no way concerned with the alleged cruelty and demand of amount of Rs.10,00,000/-. No any specific incident of demand is attributed to any of the applicants. He lastly prayed to allow this application.

5 The learned APP for the State and the learned counsel for the informant strongly objected the application by contended that the names of the applicants are mentioned in the FIR. In furtherance of their common intention, they treated the informant with cruelty by

demanding Rs.10,00,000/-. There is *prima-facie* evidence against the applicants. They lastly prayed to reject the application.

6 The learned counsel for respondent No.2 is relying on the order of this Court dated 15th July, 2022 passed in Criminal Writ Petition No.5067 of 2019 (Shafi Liyakat Kazi & Ors. Vs. The State of Maharashtra & Anr.), in which the Division Bench of this Court at Principal Seat in paragraph No.5 held as under:-

“5. It is a settled position of law that quashing an FIR in respect of cognizable offence, is not to be resorted to including that of Section 498A and Section 406 of the IPC in a routine manner but in exceptional cases. It is not permissible to hold a mini trial to render findings on evidence while quashing the FIR but it has to be seen whether FIR as it discloses any offence.”

7 Nobody will dispute the ratio laid down in the above authority.

8 Perused the charge-sheet. No doubt the FIR shows the names of the applicants. However, on perusal of the charge-sheet, it does not reveal that how and when the applicants, except her husband, treated the informant with cruelty. It is alleged that on 10th June, 2022 all the applicants threatened her to kill. However, there is no such *prima-facie* evidence. The applicants were not residing with

the informant at Pune. Considering the facts and circumstances of the case, there is no *prima-facie* material against the applicants to proceed further with trial. Compelling the applicants to face trial on such material, would be an abuse of process of the Court. Therefore, the FIR and the charge-sheet deserve to be quashed. For the reasons discussed above, the authority of ***Shafi Liyakat Kazi*** (supra) is not helpful to respondent No.2. The application is, therefore, allowed in terms of prayer clause (B). No costs.

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[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]