

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

CRIMINAL APPLICATION NO. 4391 OF 2022

1. Shaikh Ajaz Shaikh Chand
2. Shaikh Naim Shaikh Ajaz
3. Shaikh Kaleem Shaikh Ajaz
4. Noor Jahan Begum Shaikh Ajaz
5. Shaikh Rahim Shaikh Ajaz
6. Farhana Shaikh Shaikh Ajaz
7. Roshan Begum Shaikh Naim

..APPLICANTS

VERSUS

1. State of Maharashtra
2. Farhana Begum Shaikh Aleem

..RESPONDENTS

....

Mr. S.B. Joshi, Advocate i/b J.P. Legal Associates for applicants

Mr. R.B. Bagul, A.P.P. for respondent no.1 – State

Mr. S.S. Kulkarni, Advocate for respondent no.2

....

**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ
DATE : 12th JULY, 2023**

PER COURT :

1. This application, under Section 482 of Code of Criminal Procedure, has been filed for quashment of charge-sheet filed in R.C.C. No. 476 of 2020 pending on the file of C.J.M., Aurangabad.

2. Heard.

3. What can be gathered from the F.I.R. and police papers is that Respondent No.2 – wife (informant) married Alim Ajaz Shaikh (co-accused) on 02nd January, 2017. It was a love marriage. Alim was a professional electrician. The applicants before the Court are parents, brothers and sister-in-law of Respondent No.2 – wife. One of the applicants is the husband of sister-in-law.

4. Gist of the prosecution case is that all the applicants used to harass and ill-treat the informant and even asked her to fetch Rs.1 lakh from her parents for business of her husband. Since the ill-treatment became unbearable, the F.I.R. came to be lodged on 18th October, 2018. On investigation, the charge-sheet has been filed.

5. Learned A.P.P. and learned counsel representing Respondent No.2 – informant would submit that whatever has been submitted by learned counsel for the applicants is in the nature of their defence. Same could only be looked into by the trial Court alone. Our attention has been adverted to certain paragraphs of the F.I.R. to suggest the present applicants had harassed and ill-treated her and even instigated her husband to ill-treat her. Learned counsel meant to say that specific incident has been narrated in the F.I.R. Respondent No.2 – wife's supplementary statement has also been brought to our notice so as to point out incident dated 11th May, 2019. In

short, according to learned counsel no mini trial can be conducted in this proceeding. The F.I.R. and statements of relations of Respondent No.2 – wife are replete with averments of ill-treatment meted out by the applicants to Respondent No.2 – wife and therefore, the application is liable to be rejected.

6. Considered the submissions advanced. Perused the F.I.R. and related police papers.

7. Admittedly, it was a love marriage. Supplementary statement of Respondent No.2 – wife indicates that she alongwith her husband was residing separately from the present applicants. There are on record not less than seven non-cognizable cases against Respondent No.2 – wife and her relations from the parental side. All these non-cognizable cases are lodged at the instance of her husband. Those facts can not be looked into at this stage. On the basis of those cases, N.Cs. were registered with the concerned police station. Gist of those cases indicate it was Respondent No.2 – wife and her relations, who used to beat up her husband. It has been informed that the husband has left the home in the year 2019 (went missing), for no return. Before leaving, he wrote a letter to the concerned police station. A copy thereof has been placed on record. The same indicates that it was in fact he, who has suffered a lot at the hands of Respondent No.2 – wife.

8. So far as regards present applicants are concerned, they were admittedly not residing together with Respondent No.2 – wife. What has been alleged in the F.I.R. is that all the applicants together had harassed and ill-treated her to coerce her to fetch Rs.1 lakh. The F.I.R. is conspicuously silent to describe as to when the said incident did take place. It is only in the supplementary statement, the incident dated 11th May, 2019 has been narrated. The same pertains to the assault and abuse to the informant. The said incident can be read in isolation to constitute a non-cognisable offence. That incident took place when the informant's husband went missing and thereafter she had been to her matrimonial home to make enquiry about whereabouts of her husband. By no stretch of imagination the said incident could be said to have happened in the course of earlier incident viz. the alleged ill-treatment. In short, allegations in the F.I.R. do not spell out any specific incident of ill-treatment so as to attract Section 498-A of the I.P.C. As such, in our view, the allegations are general, vague and omnibus. Directing the applicants to stand trial based on such material would be an abuse of process of Court. Moreover, the facts and circumstances of the case suggest interest of justice warrants grant of relief to the applicants.

9. In view of above, criminal application is allowed in terms of prayer clause (C).

10. Fees of Mr. S.S. Kulkarni, learned counsel appointed for Respondent No.2 through High Court Legal Services Sub-Committee, Aurangabad, is quantified at Rs.10,000/- (Rupees Ten Thousand).

(SANJAY A. DESHMUKH, J.)
SSD

(R.G. AVACHAT, J.)