

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 310 OF 2022

Dhanashri Baburao Kumbhar And Ors. ...Applicants

Versus

The State of Maharashtra and Anr. ...Respondents

Mr. Akshay R. Kapadia, Advocate for Applicants.

Mrs. M. M. Deshmukh, A.P.P. for Respondent No.1 – State.

Ms. Sejal Todkar i/by Mr. Pranav Pokale and Mr. Tanmay Karwa,
Advocate for Respondent No.2.

**CORAM : A.S. GADKARI AND
PRAKASH D. NAIK, JJ.**

DATE : 3rd MAY, 2023.

P.C. :-

1. Applicants have preferred this application under Section 482 of Cr.P.C. challenging the First Information Report (for short 'FIR') dated 11th September, 2021 lodged with Chikhali Police Station, District Pimpri-Chinchwad for offences under Sections 498-A, 323, 504 r/w 34 of Indian Penal Code (for short 'IPC').

2. The FIR has been registered at the instance of Respondent No.2. The marriage between Respondent No.2 and Basawraj Jagannath Jawalgekar was performed on 1st May, 2017 at village Harkud, District Bidar, Karnataka. The Applicant Nos. 1 and 2 are sisters-in-law of Respondent No.2. The Applicant No.3 is the husband of Applicant No.2. The Applicant No.4 is brother-in-law of

Respondent No.2. The Applicant Nos. 5 and 6 are mother-in-law and father-in-law of Respondent No.2.

3. The brief allegations in the FIR are as under :

The marriage of first informant was solemnized on 1st May, 2017 with Accused No.1. The father of first informant incurred expenditure in the marriage and provided household articles, five tola gold and cash of Rs.2,51,000/-. The elder sister-in-law Babita Mohalkar and younger sister-in-law Dhanashri Kumbhar were residing at the matrimonial house of the first informant after her marriage for a period of about one month. They were repeatedly insulting first informant. They were instigating her husband. Her mother-in-law was bickering with her on small issues. She was complaining that she is not good looking. Her parents have not satisfied the demand of Accused No.1. Sufficient dowry was not provided during the marriage. Her father-in-law, brother-in-law Siddheshwar Jawalgekar, elder sister-in-law Babita Mohalkar, Sunil Mohalkar, Sister-in-law Dhanashri Kumbhar were complaining about the first informant to her husband and on account of instigating he used to abuse and assault her. During the first Diwali Festival, first informant's father and uncle had visited the matrimonial house of Respondent No.2 to take her and other family

members for Diwali Festival. At that time father-in-law and mother-in-law of first informant demanded golden ring weighing about one tola. The family members of first informant was insulted. The first informant was abused and she was sent along with her parents. The family members of husband did not visit the parental house of the first informant to take her back to matrimonial home. After repeated insistentence, the family member of Accused No.1 brought her back to matrimonial home. The elder sister-in-law and her husband abused her and told her not to again visit her parental home. The younger sister-in-law Dhanashri Kumbhar also abused her on the ground that during the marriage her brother's demands were not fulfilled. Thereafter, the informant and Accused No.1 went to Aurangabad. Her elder sister-in-law Babita Mohalkar was residing close to her residence. She kept on visiting the house of first informant and complaining about her. She went on instigating first informant's husband. Thereafter, the first informant was pregnant. Her husband was not taking her for treatment to hospital. On 23rd April, 2018 she was assaulted by her husband due to pain in her abdomen she was taken to hospital. She informed about it to her parents. They came to Aurangabad. On the next day first informant's father-in-law, brother-in-law, elder sister-in-law etc. came to Aurangabad. They abused the parents of

first informant. On instigation by sister-in-law and her husband, the Accused No.1 assaulted her. She was illtreated. There was physical and mental torture. On 8th August, 2018, Accused No.1 told the first informant to go to her parental home for first delivery. He stated that he does not want to spend money for delivery and assaulted her. The first informant called her parents. They visited matrimonial home of first informant. They were abused and insulted by the Accused. They complained about first informant. The father-in-law and mother-in-law of first informant informed Accused No.1 that he should drop her to her parental home for delivery and if she delivers a female child she should not be brought back and she should be brought to matrimonial home only if she delivers a male child. The first informant gave birth to a female child on 4th November, 2018. She informed about it to her husband. The Accused did not come to see the child. The first informant tried to contact her husband on cellphone. None from the family of Accused came to take her back to matrimonial home. The sister-in-law of first informant Dhanashri Kumbhar gave a call and informed her that, she can stay with her husband if she brings money for expenditure of child. The Accused refused to take responsibility of child. She lodged complaints with various authorities. She was physically and mentally tortured, hence she

approached the Police and lodged the FIR.

4. Learned Advocate for the Applicants submitted that, Applicants are falsely implicated in this case. The Applicants are relatives of the husband of Respondent No.2. The Applicant Nos. 1 and 2 are sisters inter say. The Applicant No.3 is the husband of Applicant No.2. The Applicant Nos. 1 and 2 real sisters of husband of Respondent No.2. Applicant No.1 is married and residing with her husband at Bangalore since 2007. The Applicant No.2 is married and residing with her husband. The Applicant No.4 is the brother-in-law of Respondent No.2. The allegations against the Applicants are vague. There are no specific and distinct allegations against the Applicants. The impugned FIR deserves to be quashed and set aside. Reliance is placed on the decision of the Supreme Court in the case of *Kahkashan Kausar Alias Sonam And Others V/s. State of Bihar And Others, (2022) 6 SCC 599*.

5. The learned Advocate for Respondent No.2 and learned APP submitted that, the first informant has attributed role to all the Applicants in the FIR. The acts attributed to the Applicants amounts to cruelty under Section 498-A of IPC.

6. We have perused the FIR. It is apparent from the FIR that specific role has been attributed to all the Applicants. The Respondent No.2 was continuously harassed. She was abused and assaulted. There were demands in the nature of dowry. The Applicants were involved in taunting and insulting Respondent No.2. Even the parents of Respondent No.2 were abused and insulted. The allegations reflected in the FIR cannot be said to be general or vague allegations. The Respondent No.2 was physically and mentally tortured. The investigation is in progress. This is not a case to scuttle the investigation. The Apex Court in the case of *Kahkashan Kausar Alias Sonam And Others V/s. State of Bihar And Others (supra)*, relied upon by learned Advocate for Petitioner has observed that, Court should be careful in proceedings against the distant relatives in a crime pertaining to matrimonial dispute and dowry deaths and must keep in mind that relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out. However, in the present case the first informant has provided the details of physical and mental torture caused to her attributing overact to all the Applicants. The FIR in the present case cannot be quashed.

ORDER

. Criminal Application No.310 of 2022 is dismissed.

[PRAKASH D. NAIK, J.]

[A.S. GADKARI, J.]