

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 177 OF 2023

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| <p>1. Digambar Shankar Ingale
Aged 75 years, Occ.: Retired</p> <p>2. Kamal Digambar Ingale
Aged 66 years, Occ.: Retired,
Both R/o. Bhimnagar Bhavsingpura,
Aurangabad, Dist. Aurangabad.</p> <p>3. Smita Sanjay Gajhans
Aged 42 years, Occ. Housework,
R/o. Cidco Yashoda Colony,
Aurangabad, Dist. Aurangabad.</p> | <p style="font-size: 4em;">}</p> | <p>... Applicants</p> |
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Versus

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| <p>1. State of Maharashtra,
Through Police Station Officer,
Police Station, Telhara,
Tq. Telhara, Dist. Akola.</p> <p>2. Sau. Shital Vivek Ingale
Aged 40 years, Occ. Household,
Presently R/o. Gajanan Nagar,
Telhara, Dist. Akola.</p> | <p style="font-size: 4em;">}</p> | <p>... Non-applicants</p> |
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Mr. V.B. Bhise, Advocate for applicants.

Mr. S.S. Doifode, APP for non-applicant No.1.

Mr. H.S. Hurduke, Advocate for non-applicant No.2.

CORAM : VINAY JOSHI, AND
VALMIKI SA MENEZES, JJ.

DATE : 06.06.2023.

ORAL JUDGMENT: (PER: Vinay Joshi,J)

. Heard finally by consent of both the learned counsel
for the respective parties.

(2) This is an application seeking to quash FIR in Crime No.381/2022 registered with Police Station Telhara, District – Akola, for the offence punishable under Sections 498-A, 504, 323 read with Section 34 of the Indian Penal Code.

(3) Applicant No.1 is father-in-law, applicant No.2 is mother-in-law whilst applicant No.3 is sister-in-law of informant lady. It is applicants contention that the principal allegations of matrimonial harassment are against the husband who is not before this Court. It is submitted that the allegations levelled in the report are omnibus, vague and of general nature. No specific instances of harassment have been stated. Moreover, it is argued that as per informants own case, the couple separated in the year 2014 and till date, they are residing separately and therefore, there was no occasion for matrimonial harassment. According to applicants, in order to pressurize the husband all family members have been falsely implicated, therefore, it is a case for quashing of the FIR.

(4) The above submissions are countered by Mr. Bhise, learned counsel, by contending that the FIR makes out a case of physical as well as mental harassment. The informant was harassed to

meet unlawful monetary demand. Informant lady was driven out by the applicants and her husband. According to informant, the parents-in-law have instigated their son to harass the lady for meeting unlawful demand. The informants learned counsel would submit that a specific incident dated 17.06.2022 has been stated wherein the informant's son was physically assaulted. In short, it is submitted that the applicants are also involved in the crime along with her husband.

(5) We have considered the rival submissions and examined the contents of FIR. The marriage took place on 23.11.2003 whilst the report has been lodged after 20 years from the marriage. It is informants case that since inception she was subjected to harassment principally at the hands of husband. It is alleged that husband was liquor addict who used to beat her after consuming liquor. All the time applicants have instigated husband by taking his side. It is alleged that the applicant No.3 (sister-in-law) used to visit their place and was also instigating her brother. The informant stated that in the year 2014, the couple shifted to village Telhara and stayed with the parents of informant till the year 2018. Thereafter, the husband again returned to Aurangabad but never came back. It is

stated that on 17.06.2022, the informant went to Aurangabad to resume cohabitation, however, she was abused man handled and sent back.

(6) On examination of the report, it reveals that the main allegations are against husband about his habit of consuming liquor and harassing the lady. Though, the marriage took place in the year 2003, we do not see any specific instance till the last incident dated 17.06.2022, when informant's son was physically assaulted. It is the informant's case itself, that in the year 2014, she started to live at Telhara, obviously, away from all applicants who are relatives of the husband. There is no reference regarding role of applicants from the year 2014 till the incident dated 17.06.2022. Apparently, it reveals that for the period of nine years no role was assigned to the applicants connecting to the matrimonial cruelty.

(7) As regards, the last incident dated 17.06.2022, the applicants would submit that on that day there was quarrel for which they have also lodged the report, which was registered vide NC No.818/2022. Thus, the last incident quoted by wife is also under the shadow of doubt.

(8) Particularly, the husband who is facing the main allegations has not applied to this Court. Though, the span of marital life is of 19 years, nothing specific has been alleged against the present applicants. More particularly, as per informants own case from the year 2014 onwards, the applicants were not in picture. In the circumstances, it would be hazardous to prevail the prosecution against the relatives of husband who have no role.

(9) We are satisfied about untenability of the prosecution against the applicants who are relatives of the husband of the applicants. In the circumstances, the application is allowed. We hereby quashed and set aside the FIR in Crime No.381/2022 registered with Police Station Telhara, District – Akola, for the offence punishable under Sections 498-A, 504, 323 read with Section 34 of the Indian Penal Code, as regards to the applicants only.

(10) Application stands disposed of in the above terms.

[VALMIKI SA MENEZES, J.]

[VINAY JOSHI, J.]