

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

CRIMINAL APPLICATION (APL) NO. 886 OF 2022

1. Tushar s/o Shashimohan Sirsat (Husband), Age – 38, Occup – Education, R/o – N-11, C-1 8/4 Deep Nagar, Hudco, Aurangabad, Distt. Aurangabad.
2. Shashimohan s/o Rajaram Sirsat (Father-in-law), Age – 66, Occup – Pensioner, R/o – do.
3. Priti d/o Shashimohan Sirsat (Married Sister-in-law), (Priti w/o Sudhir Ingle), Age – 37, Occup – Housewife, R/o – RL 70, Khadki Takali Khurd, Akola – 444 001
4. Nilesh s/o Shashimohan Sirsat (Brother-in-law), Age – 33, Occup – Education, R/o-N-11, C-1 8/4 Deep Nagar, Hudco, Aurangabad.
5. Shubhangi w/o Pradeep Sirsat, (Paternal Aunt of Husband), Age – 40, Occup – Household At present R/o-N-11K, House No.6/4 Navjivan Colony, Opposite SPI, Aurangabad.
6. Pradeep s/o Rajaram Sirsat [Paternal Uncle of husband], Age – 51, Occup – Private Job, R/o – do.
7. Eknath s/o Mhatarji Shinde, [friend of Applicant No.2], Age – 67 years, Occup

– Retired, R/o – Room No. 11, Plot No.
27, Saisidhi CHS, Near IES School,
Charkop Sector 2, Kandivli (West),
Mumbai (Sub Urban)

... APPLICANTS

VERSUS

1. The State of Maharashtra, through
Mehkar Police Station, Buldhana
District Copy to be served on APP
High Court, Nagpur Distt. Nagpur.
2. Ujwala w/o Tushar Sirsat, Age – 31
years, Occu- Household, r/o – C/o
Govind Kisan Khandare, Shikshak
Coloney, Pawansut Nagar, Ward No.
5, Dongaon Road, Mehakar, Tq.
Mehakar, Distt. Buldhana – 443301

... NON-APPLICANTS

Shri N.U. Telgaonkar, Advocate for the applicants.
Shri Kadukar, A.P.P. for the non-applicant/State.
Shri P.S. Wathore, Advocate for the non-applicant no. 2.

CORAM : VINAY JOSHI AND BHARAT P. DESHPANDE, JJ.
DATED : 19/04/2023.

ORAL JUDGMENT : (Per : Vinay Joshi, J.)

Heard. **ADMIT.**

2. The matter is taken up for final hearing by consent of

learned Counsel appearing for the respective parties.

3. This application for seeking to quash the First Information Report (FIR) in Crime No. 122 of 2022 registered with the Mehakar Police Station, District Buldhana for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and related charge-sheet bearing R.C.C. No.392 of 2022 pending on the file of Judicial Magistrate First Class, Mehakar

4. Respondent no.2 (informant) has lodged the report regarding the matrimonial harassment. It is the prosecution case, that respondent no.2 got married with applicant no. 1 Tushar on 11.12.2016. Soon-after the marriage, she resumed to cohabit with husband, parents in law and brother in law. After few months from the marriage, she was subjected to harassment by her husband and parents in law, at the instance of monetary demand. In the year 2018, the informant delivered a baby girl for which again her husband and other relatives started to humiliate her. The informant stated that there was monetary demand of Rs.40 lakhs at the hands of the applicants. She has stated the incident dated 25.02.2021. When she returned to her matrimonial house, her husband, father in law and brother in law abused her, snatched her belongings and driven her out. She has filed

two N.C. reports regarding the alleged harassment. By and large, the informant has stated about matrimonial harassment at the instance of the monetary demand.

5. Learned Counsel for the applicants would submit that there are vague and general allegations against all applicants. He has pointed certain discrepancies to contend that the allegations are not probable. The informant barely stayed at her matrimonial house for 13 months. It is submitted that applicant no.3 Priti Sirsat (married sister of husband) got married in the year 2011 and staying separately with her husband, who is a judicial officer. It is submitted that applicant no.5 Shubhangi and applicant no.6 Pradeep are parental aunt and uncle respectively of the husband, who are residing separately having no concerned with the couple. Moreover, it is submitted that applicant no.7 Eknath Shinde is not related with the husband as he is a friend of father-in-law of the informant. Learned Counsel for the applicants took us through the several documents to contend that there was an incident of assault for which the applicants have filed the N.C. report. So also supporting medical report has been produced.

6. On the other hand, learned counsel appearing for respondent no. 2-wife would submit that the applicants' contention is

supported by her parents in their statement recorded by the Police. There are specific allegations about matrimonial harassment, and thus, it is a subject matter of trial.

7. We have examined the police papers. There are consistent allegations against the husband, parents-in-law and brother-in-law, who participated in driving out the informant from the house. Though the allegations are levelled against the sister-in-law Priti however undeniably, she got married with a judicial officer, obviously she is staying with her husband. Though it is canvassed that due to matrimonial differences, applicant no.3 Priti was staying at her maternal house but no such statement has been made by either of them. As regards to applicant nos.5 and 6, who are distant relatives are concerned, beside a single line of allegation about their insistent for demand on isolated occasion, there is nothing against them.

8. Applicant no.7 Eknath Shinde is not related to the family and therefore, *prima facie* it is difficult to hold that he is liable to face the prosecution for the offence punishable under Section 498-A of the Indian Penal Code.

9. It reveals that, the husband has filed a divorce petition

whilst the wife has also filed a proceedings for maintenance. Two N.C. reports lodged by the wife indicates that there was a dispute for which the matter has already been reach to the Police. The wife has repeated allegations against the husband and parents-in-law. Admittedly, mother-in-law is died. Thus, *prima facie* the allegations are consistent as regards to applicant no.1 husband, applicant no. 2 father-in-law and applicant no.4 brother-in-law. At this stage, we cannot decide worth of allegations in the writ jurisdiction.

10. The tendency of a women of involving all relatives of the husband in the matrimonial proceedings is not unknown rather the said cast a duty on the Courts to minutely examine the allegations and to see that the relatives shall not be harassed unless there is specific triable material. In the circumstances, we find no substantial material against applicant no.3 Priti Sirsat, applicant no. 5 Shubhangi Sirsat, applicant no.6 Pradeep Sirsat and applicant no.7 Ekanth Shinde. The case as regards to these applicants are concerned, it is covered under Clause 7 of the decision of the Supreme Court in case of ***State of Haryana vs. Bhajan Lal AIR 1992 SC 604***. The case as regards to applicant no. 7 Eknath Shinde is concerned, the Supreme Court in cases of ***Vijeta Gajra vs. State of NCT of Delhi (2010) 11 SCC 618*** and ***U. Suvetha v. State by Inspector of Police (2009) 6 SCC 757*** held that

Section 498-A of the Indian Penal Code is applicable only to relatives of husband, by blood, marriage or adoption.

11. As regards to applicant no.1 Tushar Sirsat, applicant no. 2 Shashimohan Sirsat and applicant no.4 Nilesh Sirsat are concerned, at the threshold the contentions cannot be said to be baseless. In view of that, the application deserves to be partly allowed, hence following order :

- (a) The application is partly allowed.
- (b) We hereby quashed and set aside the First Information Report (FIR) in Crime No. 122 of 2022 registered with the Mehakar Police Station, District Buldhana for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and related charge-sheet bearing R.C.C. No.392 of 2022 pending on the file of Judicial Magistrate First Class, Mehakar as regards to only applicant nos.3 and 5 to 7.

12. The application stands disposed of in above terms. No order as to costs.

(BHARAT P. DESHPANDE, J.)

(VINAY JOSHI, J.)