



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

34 CRIMINAL APPLICATION NO.69 OF 2023

1. Chandrakala Maroti Kharabe
Age: 59 years, Occu.: Household,
R/o. Vitthal Rukhmini, Shrinagar,
Vidyanagar, Selu, Tq. Selu,
District Parbhani
2. Nilesh Maroti Kharabe
Age: 41 years, Occu.: Service,
R/o. Dhillon Residency, Kanchanwadi,
Paithan Road, Aurangabad,
Tq. And Dist. Aurangabad.

.. Applicants

Versus

1. The State of Maharashtra
Through Police Inspector,
Pundlik Nagar Police Station,
Aurangabad.
2. Vaishali Niraj Kharabe,
Age: 32 years, Occu.: Household,
R/o.4-16-334, Vijya Nagar, Garkheda
Parisar, Aurangabad,
Tq. And Dist. Aurangabad.

.. Respondents

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Ms. Ranjita Barhate (Deshmukh) h/f Mr. A. N. Barhate Patil, Advocate
for Applicants.

Mr. V. K. Kotecha, APP for Respondent No.1/State.

Mr. Kunal A. Kale, Advocate for Respondent No.2.

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**CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.**

DATE : 16 DECEMBER 2024

ORDER :

. Present application has been filed under Section 482 of the Code of Criminal Procedure initially for quashing the FIR vide Crime No.503 of 2022 dated 27.11.2022 registered with Pundlik Nagar Police Station, District Aurangabad and later on for quashing the proceedings bearing R.C.C. No.1351 of 2023 pending before the learned Judicial Magistrate First Class, Aurangabad for the offences punishable under Sections 323, 380, 498-A, 504, 506 read with Section 34 of Indian Penal Code.

2. During the pendency of the application, applicant No.1, who is the mother-in-law of respondent No.2/informant, expired and, therefore, the case has abated against her. Present applicant No.2 is the brother-in-law of respondent No.2.

3. Heard learned Advocate Ms. Ranjita Barhate (Deshmukh) holding for learned Advocate Mr. A. N. Barhate Patil for the applicants and learned APP Mr. V. K. Kotecha for respondent No.1/State. In order to cut short it can be said that both of them have made submissions in support of their respective

contentions.

4. Perusal of the FIR and the entire charge-sheet would show that the allegations against present applicant No.2 is that the land bearing Gut No.55 admeasuring 1 H 26 R situated at Patoda, Taluka Pathri, District Parbhani was got mutated in the name of applicant No.1 by applicant No.2 and when inquiry was made by the informant on phone with him, he told that nobody can take action against him and then he cut off the phone and when again she called him, he abused her and told that she is at liberty to adopt procedure. Taken the things on the face of record as it is. It was the alleged conversation between respondent No.2 and applicant No.2 on phone. Therefore, other witnesses do not have or cannot have any personal information about the same. Whatever the said conversation has been given in the FIR is taken as it is, still it will not amount to cruelty. It is not in dispute that applicant No.2 was not residing with respondent No.2 and her husband original accused No.1. It would be unjust to ask the applicant No.2 to face the trial and, therefore, case is made out for exercising the powers under Section 482 of the Code of Criminal Procedure. Hence, following order is passed :-

ORDER

1. Criminal Application stands allowed.
2. The First Information Report vide Crime No.503 of 2022 dated 27.11.2022 registered with Pundlik Nagar Police Station, District Aurangabad and the proceedings in R.C.C. No.1351 of 2023 pending before the learned Judicial Magistrate First Class, Aurangabad for the offences punishable under Sections 323, 380, 498-A, 504, 506 read with Section 34 of Indian Penal Code, stand quashed and set aside as against the present applicants.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm