



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.48 OF 2024

- 1) Om Kakasaheb Deshmukh
(Husband of informant),
Age-28 years, Occupation-Service,
(Naik-Indian Armed Force, 225,
Field Regiment),
R/o-Varapgaon , Tq-Kaij, Dist-Beed,
At present- R/o-Rajouri (Jammu),
- 2) Krishna Kakasaheb Deshmukh,
(Brother-in-law of informant),
Age-30 years, Occupation-Service,
(Sipoy – Indian Armed Force,
117 Engineer Regiment),
R/o-Varapgaon, Tq-Kaij, Dist-Beed,
At present R/o-Jodhpur Unit (Rajasthan),
- 3) Kakasaheb Govindrao Deshmukh,
(Father-in-law of informant),
Age-63 years, Occupation-Agriculturist,
R/o-Varapgaon, Tq-Kaij, Dist-Beed,
- 4) Sunita Kakasaheb Deshmukh,
(Mother-in-law of informant),
Age-50 years, Occupation-Homemaker,
R/o-Varapgaon, Tq-Kaij, Dist-Beed.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Office In-charge,
Police Station, MIDC, Latur, Dist-Latur,
- 2) Pratiksha D/o Kamlakar Godse @
Pratiksha Om Deshmukh,
Age-50 years, Occupation-Teacher,
R/o-Karepoor, Tq-Renapur, Dist-Latur.

...RESPONDENTS

...
Ms. Pooja S. Ingle Advocate h/f. Mr. S.J. Salunke Advocate
for Applicants.
Mr. A.M. Phule, A.P.P. for Respondent No.1.
Mr. N.L. Dhobale Advocate for Respondent No.2.
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**CORAM: SMT. VIBHA KANKANWADI AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 14th OCTOBER, 2024

ORDER :

1. Present Application has been filed under Section 482 of the Code of Criminal Procedure for quashing proceedings in R.C.C. No.1828 of 2022 pending before the learned Judicial Magistrate First Class, Latur for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, arising out of the First Information Report (for short "the FIR") vide Crime No.601 of 2022 registered with Police Station, M.I.D.C., Latur.

2. It is not in dispute that respondent No.2 was married to applicant No.1 on 5th February 2021. Applicant No.1 is in service with Indian Armed Forces and was posted at Indore, Madhya Pradesh at the time of marriage and on the date of FIR, he was posted at Rajouri, Jammu. Applicant No.2 is the brother of applicant No.1. Applicant Nos.3 and 4 are the parents of

applicant Nos.1 and 2. Applicant No.2 is also serving as sepoy in Indian Armed Forces and is posted at Jodhpur Unit in Rajasthan.

3. Heard learned Advocate Ms. Ingle holding for learned Advocate Mr. Salunke for applicants, learned APP Mr. Phule for respondent No.1 and learned Advocate Mr. Dhobale for respondent No.2. In order to cut short, it can be said that the learned Advocates for respective parties have argued in support of their contentions.

4. The contents of the FIR would show that after the marriage, the informant contends that she was treated properly for about three months. She then says that after her husband went to place of his posting, she was harassed by applicant Nos. 2 to 4 on the ground that they were not properly honoured in the marriage, she is unable to cook properly, she is not getting up early. They used to assault her and ill-treat her mentally and physically. She then says that after applicant No.2 came for Diwali, he used to give taunts to her and insult her by saying that she is unable to understand anything, she does not know how to speak, she has no caliber and applicant No.1 would perform second marriage. She used to be kept starved and mother-in-law used to tell her that if she informs the fact to husband i.e. applicant No.1 or even to her parents, then she

would be killed. She was beaten by applicant Nos.3 and 4 on 4th December 2021 when informant had gone to the programme of naming ceremony of the child of sister-in-law. She was then driven out of the house but she took shelter in the house of uncle of applicant No.1 in the neighbourhood. Applicant Nos.3 and 4 were tried to be persuaded by the relatives of respondent No.2 on 12th April 2022. At that time applicants had put lock to the entrance of the house and went upstairs and told that they will not allow the informant to come in the house. The informant had tried to contact her husband i.e. applicant No.1 but he had blacklisted her mobile number. Therefore, she went to *Mahila Atyachar Niwaran Kendra* (Women's Grievance Redressal Cell), but the applicants never attended the said *Kendra* and therefore, FIR was lodged.

5. In view of the fact that now the investigation is over and charge-sheet is filed, we are taking note of the contents of the charge-sheet. It shows that the statements of the relatives of respondent No.2 have been recorded under Section 161 of the Code of Criminal Procedure. Those statements are nothing but the copy-paste. Even if their statements are taken as it is, whether the offences invoked while filing charge-sheet are made out or not is required to be seen.

6. We have already reproduced the contents of the FIR and taking into consideration the said FIR it can be seen that applicant No.1 was at Indore when alleged incidences of ill-treatment had taken place. Still, he has been made as an accused. Informant has also not made it clear even in the FIR that as to when applicant No.2 had joined his services as sepoy in Indian Armed Forces. The alleged acts of cruelty cannot be said to be of that degree which can be defined as cruelty. What has been alleged is that the family of the informant had not honoured the applicant Nos. 2 to 4 in the marriage. The alleged act on the part of the applicants was not coupled with or followed by the acts of cruelty. Even for the sake of arguments if it is accepted that demand was there, yet it cannot amount to cruelty or harassment. It appears that there is concoction in the story. As aforesaid, when husband was not at all present, still he has been arrayed as accused. Applicant No.1 has filed petition for divorce i.e. H.M.P. No. 181 of 2022 before the learned Civil Judge, Senior Division, Ambajogai, District-Beed on 4th August 2022 and it appears that after the receipt of the summons therein, the present FIR has been lodged with ulterior motive and the other relatives are dragged in, we take this to be a fit

case where we should exercise our powers under Section 482 of the Code of Criminal Procedure. Hence we pass following order:-

ORDER

(I) The Application stands allowed.

(II) The proceedings in R.C.C. No.1828 of 2022 pending before the learned Judicial Magistrate First Class, Latur for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, arising out of the FIR vide Crime No.601 of 2022 registered with Police Station, M.I.D.C., Latur, stands quashed and set aside as against applicant Nos. 1 to 4 i.e. - 1) Om Kakasaheb Deshmukh, 2) Krishna Kakasaheb Deshmukh, 3) Kakasaheb Govindrao Deshmukh and 4) Sunita Kakasaheb Deshmukh.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE