



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 221 OF 2024

Prakash Murlidhar Choudhari And OthersApplicants

VERSUS

The State Of Maharashtra And AnotherRespondents

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Ms. Ansari Asfia Nuzhat, Advocate for Applicants

Mr. S.P. Sonpawale, APP for Respondents No. 1

Mr. S.R. Patil, Advocate for respondent No. 2

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 22nd APRIL, 2024

ORDER :

1. This application filed under section 482 of Code of Criminal Procedure, seeks quashing of complaint bearing MHJG-1300152/2019 and R.C.C. No. 167/2019, pending on the file of Judicial Magistrate First Class, Chopada, District- Jalgaon.

2. Applicants No. 1 and 2 are father-in-law and mother-in-law of respondent No. 2, applicant No. 3 is brother-in-law, applicant No. 4 is his wife, applicant No. 5 is sister-in-law and applicant No. 6 is her husband, against whom respondent No. 2 filed complaint under section 498-A, 405, 323, 504, 506 r/w 34 of the Indian Penal Code and under section 3 and 4 of Dowry Prohibition Act.

Bhagyawant Punde

3. The second respondent married with elder son of applicants No. 1 and 2 namely Nilesh, in the year 2009 and two sons are born out of the wedlock. Marital life went sour and respondent No. 2 filed PWDV Application No. 26/2019 under Protection of Women from Domestic Violence Act, 2005, which is decided on 16.12.2019, thereby awarding an amount of Rs. 30,000/- as compensation and Rs. 5,000/- towards monthly maintenance and Rs. 1500/- by way of rent to respondent No. 2. Same was challenged by husband-Nilesh in PWDV Appeal No. 3/2022, which was allowed by District Court and matter is remanded back to the Trial Court.

4. Nilesh filed proceeding under section 9 of Hindu Marriage Act, 1955, for restitution of conjugal rights, which was allowed by judgment and order dated 09.02.2023.

5. It is the case of applicants that after marriage in the year 2009, respondent No. 2 stayed with them only for a period of five months. Thereafter, since Nilesh lost his job at Jalgaon, he along with respondent No. 2 went to Pune in search of job. At Pune, respondent No. 2 got job of Assistant Teacher in the year 2011 in a private school. Since 2016, respondent No. 2 is serving in a public school at Pune.

6. Perusal of complaint reveals that respondent No. 2 has specifically averred that initially she stayed with applicants No. 1 and 2 at Jalgaon and thereafter she along with husband-Nilesh shifted to Pune. Allegations of ill treatment and harassment are mainly made against husband and vague and general allegations are leveled against applicants.

7. It is thus clear that respondent No. 2 resided with applicants initially only for a period of five to six months. Thereafter, admittedly, she shifted to Pune along with husband-Nilesh. In these facts arraying applicants as accused in private complaint lodged by her is nothing but an abuse of process of law and Court. Considering vague and general allegations made against applicants, it appears that only with a view to pressurize and harass them, they are implicated in the present case. Continuation of proceedings would cause harassment to applicants who are residing separately from respondent No. 2 at different places.

8. Decision in *Neelu Chopra and Another vs. Bharti*, 2009 SCC OnLine SC 1693, supports the case of applicants.

9. In the result, application is allowed in terms of prayer clause 'B'.

10. Complaint bearing no. MHJG- 1300152/2019 and R. C. C. No. 167/2019 pending before Judicial Magistrate First Class, Chopada, Dist. Jalgaon, is hereby quashed and set aside to the extent of applicants.

[NITIN B. SURYAWANSHI, J.]