

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

61 CRIMINAL APPLICATION NO. 451 OF 2022

**VIKAS MANOHAR KASBE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Advocate for Applicants : Mr. M.P. Kale
h/f. Mr. P.N. Muley
APP for Respondent No. 1 : Mr. V.K. Kotecha
Advocate for Respondent No. 2 : Mr. A.L. Kanade

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 11 MARCH 2024

PER COURT :

Heard both the sides finally.

2. The applicants are invoking the powers of this Court under Section 482 of Code of Criminal Procedure, seeking quashment of FIR bearing Crime No. 272 of 2021 registered with Police Station Talwada, District Beed, for the offences punishable under Sections 498-A, 323, 504, 506, 34 of the Indian Penal Code and consequential Charge-sheet no. 1 of 2022 bearing RCC No. 108 of 2022 pending before the Judicial Magistrate First Class, Gevrai, District Beed.

3. Application to the extent of applicant nos. 1 to 3 who are the husband of respondent no. 2 and his parents, has been withdrawn on 04 March 2022.

4. This leaves us with the request for quashment qua the rest of the co-applicants who happen to be the married sisters of the applicant / husband.

5. Learned Advocate for the applicants points out that except a vague and bald statement in the FIR and a similar version of the witnesses including the parents, uncle, aunt and brother of respondent no. 2 no specific and precise role is attributable to the applicant nos. 4 and 5. They were married even before the marriage of respondent no. 2. It would be abuse of process of law to make them face the prosecution. They have been falsely implicated and the crime be quashed to their extent.

6. Learned APP and learned Advocate for respondent no. 2 strongly oppose the application. They would emphasis unanimous stand in the FIR and also witnesses stating that even these two sisters-in-law were abusing her.

7. Going by the FIR, the marriage between applicant no. 1 and respondent no. 2 was solemnized on 18 December 2018. The FIR as well as the statements of the witnesses mention that since 26 April 2021 respondent no. 2 has come back to the parental home. The statements further indicate that she was properly maintained for a period of one

year. Besides, there is an agreement entered into between applicant no. 1 and respondent no. 2 apparently notarized as well (exhibit B) which is dated 18 June 2019. This document has gone uncontroverted. Irrespective of its legality or otherwise it would indicate that on 18 June 2019 the couple had agreed to severe the status. We are pointed out this fact to demonstrate that there was hardly a time of about six months to which the allegations should refer to.

8. Considering the fact that applicant nos. 4 and 5 who are the married sisters-in-law who must have been residing in their respective matrimonial homes, the allegations in the FIR is indeed scanty much less to make out any case of abatement of cruelty to which respondent no. 2 was allegedly subjected to.

9. It appears from the FIR that in all probability the cause for matrimonial discord was the affair of applicant no. 1 which respondent no. 2 became aware soon after the marriage.

10. Bearing in mind the aforementioned facts and circumstances, we see no sufficient material to demonstrate any active role played by applicant nos. 4 and 5 in subjecting respondent no. 2 to cruelty. In all probability, she has roped them with intention to wreck vengeance. Their case is clearly covered by the observations of the

Supreme Court in the matter of *Geeta Mehrotra and others Versus State of Uttar Pradesh and others*, **(2012) 10 SCC 741**, *Kahkashan Kausar Versus State of Bihar*, **(2022) 6 SCC 599** and *Preeti Gupta and another Versus State of Jharkhand and another*, **AIR 2010 Supreme Court 3363**.

11. Application is allowed. FIR bearing Crime No. 272 of 2021 registered with Police Station Talwada, District Beed, for the offences punishable under Sections 498-A, 323, 504, 506, 34 of the Indian Penal Code and consequential Charge-sheet no. 1 of 2022 bearing RCC No. 108 of 2022 pending before the Judicial Magistrate First Class, Gevrai, District Beed, to the extent of applicant nos. 4 and 5 are quashed and set aside.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]