



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 552 OF 2023

1. Datta S/o. Tukaram Gaikwad
 2. Lata W/o. Tukaram Gaikwad
 3. Tukaram S/o. Devidas Gaikwad
 4. Preeti W/o. Rahul Gaikwad
 5. Vishal S/o. Tukaram Gaikwad
 6. Rahul S/o. Tukaram Gaikwad
 7. Gautami D/o. Uttam Gaikwad
 8. Sunita D/o. Uttam Gaikwad
 9. Surekha D/o. Sudhakar Gaikwad
 10. Sayali D/o. Sudhakar Gaikwad
 11. Mona D/o. Sudhakar Gaikwad
-Petitioners

Versus

1. The State of Maharashtra
 2. The Senior Police Inspector
Ambajogai Police Station,
Taluka Ambajogai, District Beed.
 3. Pragati W/o. Datta Gaikwad
-Respondents

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As per Hon'ble Court's Order dated 14.03.2023 application is disposed of as withdrawn to the extent of applicant no. 1.
Advocate for Petitioner Nos. 2 to 11 : Mr. Shritej Surve
APP for Respondent Nos. 1 & 2 : Mr. S.B. Pukundwar
Advocate for Respondent No. 3 : Mr. Balaji S. Chondhekar

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

DATE : 26 APRIL 2024

PER COURT (Per : Shailesh P. Brahme, J.) :

1. Heard both the sides finally at the admission stage.
2. Applicant no. 1 has already withdrawn application. Today, when we expressed our disinclination to grant any relief, learned counsel for the applicants sought permission to withdraw application to the extent of applicant nos. 2, 3, 5 and 6. Hence, to their extent also application is disposed of as withdrawn. We are now considering application to the extent of applicant nos. 4 and 7 to 11.
3. Applicants are invoking jurisdiction under Section 482 of Code of Criminal Procedure for quashment of First Information Report bearing CR No. 400 of 2021 registered with Ambajogai Police Station, Ambajogai, District Beed, and consequential

Regular Criminal Case No. 381 of 2021 pending before learned Judicial Magistrate First Class, Ambajogai, for the offences punishable under Sections 498-A, 323, 504, 506, read with 34 of the Indian Penal Code. Respondent no. 3 is the informant who is married to applicant no. 1 – Datta. Applicant no. 4, 7, 10 and 11 are sisters-in-law and applicant nos. 8 and 9 are aunts of husband of informant.

4. It is alleged by respondent no. 2 that her marriage was solemnized on 11.06.2017 and she resided with her husband at Pune. Her fidelity was suspected by in laws. When she was pregnant, she was tortured by all accused persons on 14.10.2017. She was demanded Rs. 5 Lakh for purchasing a land and she was driven out from matrimonial home.

5. Learned counsel for the applicants submits that compliant was lodged on 12.10.2021 in respect of incident occurred on 14.10.2017. He would further submit that there are no specific allegations against the applicants and no incriminating material is collected against them. It is further submitted that belatedly false complaint is filed as applicant no. 1 secured

divorce. Applicants are roped in the offence in question to wreck vengeance which is good ground to quash the proceeding.

6. Learned APP submits that there is incriminating material collected during the course of investigation. The statements of the parents of the informant would disclose involvement of the applicants. Learned counsel for respondent no. 2 submits that informant has preferred appeal against decree of dissolution of marriage which is pending. It is further submitted that upto December 2019 couple resided together and, therefore, there was no delay in filing complaint.

7. We have considered rival submissions of the parties as well as relevant papers of investigation. We find that there are allegations against applicant nos. 1 to 3, 5 and 6. They have withdrawn application to their extent. The allegations against remaining applicants are omnibus. The statements of the parents of the informant i.e. Arjun and Jayshree also do not spell out specific incriminating role. It is not made clear whether informant was sharing common shelter with these other applicants or not. Only one incident of 14.10.2017 has been cited in the FIR and

statements to connect these applicants to the crime. But, no material particulars are revealing from investigation.

8. The marriage between applicant no. 1 and informant has already been dissolved, albeit appeal against it is pending. The relationship between informant and applicants has not only been strained but severed. The possibility of false implication of the applicants in the crime cannot be ruled out.

9. Learned counsel for the applicant has rightly referred to judgment of the Supreme Court in the matter of Kahkashan Kausar Versus State of Bihar, **(2022) 6 SCC 599**. The principles laid down in paragraph no. 18 are aptly applicable to the case in hand. We propose to follow the principles.

10. Criminal Application is allowed partly to the extent of application nos. 4 and 7 to 11. Impugned FIR and RCC No. 381 of 2021 are quashed and set aside to the extent of applicant nos. 4, 7 to 11.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]