



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

**CRIMINAL APPLICATION NO. 637 OF 2023**

Hussain Ali Shaikh Hidayat Ali Shaikh  
Age. 34 years, Occu. Service,  
All R/o. Turabul Haq Nagar, Parbhani  
Tq. & Dist. Parbhani.

....Applicant

Versus

1. The State of Maharashtra

2. Khudeja Fatema Suddam Noorul Haq

....Respondents

....

Advocate for Applicant : Mr. A.R. Syed  
APP for Respondent No. 1 : Ms. S.S. Joshi  
Advocate for Respondent No. 2 : Mr. Azad A Khan  
and Mr. Sk.Altamash Adbul L.

...

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

**DATE : 28 FEBRUARY 2024**

**FINAL ORDER (PER : SHAILESH P. BRAHME, J.) :**

1. Heard both the sides finally with their consent.

2. The applicant is seeking quashment of First Information Report bearing C.R. No. 163 of 2022 registered with Begumpura Police Station and consequential RCC No. 2724 of 2022 pending before the learned Judicial Magistrate First Class, Aurangabad.

3. Respondent no. 2 is the informant who has lodged first information report on 19.09.2022 for the offences punishable under Sections 498 A , 323, 504, 506 read with 34 of the Indian Penal Code against the applicant and other in-laws. Her marriage with the accused husband was solemnized on 08.11.2019. The applicant is the husband of married sister-in-law of the informant. Investigation was completed and charge-sheet was filed on 24.12.2022 which is culminated into RCC No. 2724 of 2022.

4. Learned counsel for the applicant submits that the allegations against the applicant are omnibus and no offence can be made out. He submits that applicant is residing separately and has no concern with the informant and the accused husband after their marriage. He would submit that he is falsely implicated to wreck the vengeance. The papers of investigation do not show any incriminating role against him to attract the offence alleged against him. It is further submitted that during the relevant period, there was lockdown and restrictions of Covid – 19 were imposed. It is improbable that the applicant could have visited the matrimonial home of respondent no. 2 to abet any ill-treatment.

5. Learned APP and learned counsel for respondent no. 2 would oppose the prayer of quashment. They would submit that there is cogent material on record to proceed against the applicant. A specific

role has been attributed against the applicant and his further complicity can be examined during the course of trial. It is further submitted that the statements recorded during the course of investigation would also show involvement of the applicant. According to them, this is not a fit case to quash the proceedings.

6. We have considered rival submissions of the parties. The applicant before this Court is husband of married sister-in-law of respondent no. 2 . It reveals from the record that the married sister-in-law and the applicant were residing separately from the matrimonial home albeit in the same city. He has been working as primary teacher.

7. It is alleged by respondent no. 2 that after her marriage, she was being treated well for a period of two-three months. Thereafter, the accused persons started demanding Rs. 5 Lakhs for securing job for the accused husband. Respondent no. 2 was being harassed by all the accused persons. She was abused and assaulted by the accused persons. On 15.05.2020, she was given oral Talak by husband and driven out from home.

8. Careful reading of the First Information report and the statements of witnesses recorded during the course of investigation do not attribute specific role to the applicant. The allegations are mainly

against husband and parents in-laws of respondent no. 2. The reference to the applicant is only omnibus. Together with other accused, he has been named. No exclusive role has been attributed. There is nothing on record to show that the applicant used to visit the matrimonial home and interfered in the personal matters of the informant and her husband. The police papers do not make out any case to proceed against the applicant.

9. We have considered complaint filed by the informant before lodging FIR with the police station in a reconciliation proceedings. It also does not attribute any specific role to the applicant. It transpires that on couple of occasions, the applicant is shown to have been present but no overt act is alleged against him. There is no specific time and date mentioned in it.

10. It reveals from record that the applicant is primary teacher and his wife is a medical practitioner. Just because they are residents of the same city it cannot be inferred that they would interfere with matrimonial life of informant. We are not impressed by statements of father, mother and brother of the informant. Their statements are stereotypes. They are not eye witnesses.

11. Considering over all conspectus of the matter, we are of the considered view that the applicant has been falsely implicated in the

offence in question without sufficient and cogent material. In view of law laid down by Supreme Court in the matter of *Geeta Mehrotra and others Versus State of Uttar Pradesh and others*, (2012) 10 SCC 741 and *Kahkashan Kausar Versus State of Bihar*, (2022) 6 SCC 599, we are inclined to allow present application :

**ORDER**

- i. Criminal Application is allowed.
- ii. FIR bearing C.R. No. 163 of 2022 of Begumpura Police Station and consequential RCC No. 2724 of 2022 pending before the learned Judicial Magistrate First Class, Aurangabad, are quashed and set aside.
- iii. Criminal Application stands disposed of.

**[ SHAILESH P. BRAHME, J. ]**

**[ MANGESH S. PATIL, J. ]**