



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 762 OF 2023

1. Bharat s/o Madhukar Jadhav,
age 27 years, Occ. Nil,
R/o Priyadarshani Nagar, Garkheda Parisar,
Aurangabad.
 2. Sakharabai Madhukar Jadhav,
age 56 years, Occ. Housewife,
R/o Priyadarshani Nagar, Garkheda Parisar,
Aurangabad.
 3. Madhukar Kachru Jadhav,
age 65 years, Occ. Nil,
R/o Priyadarshani Nagar, Garkheda Parisar,
Aurangabad.
 4. Aamrapali Nagsen Nikam,
age 31 years, Occ. Nil,
R/o Priyadarshani Nagar, Garkheda Parisar,
Aurangabad.
 5. Surekha Shrimant Landge,
age 37 years, Occ. House wife,
R/o Mulani Wadgaon, Tq. Paithan,
District Aurangabad.
 6. Jyoti Kailash Gajile,
age 25 years, Occ. House wife,
R/o Nipani.
 7. Ujwala Kacharu Kharat,
age 33 years, Occ. House wife,
R/o Haregaon, Taluka Shrirampur,
Ahmednagar.
- Applicants.

Versus

1. The State of Maharashtra,
Through Chikalthana Police Station,
Aurangabad.
2. Kalpana w/o Bharat Jadhav,
age 25 years, Occ. House wife,
C/o Madhavrao Kacharu Pakhare,
R/o Warud Kazi, Taluka & Dist
Aurangabad. Respondents.

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Advocate for Applicants : Mr. S.S. Kulkarni

APP for Respondent no.1 : Mr. A M Phule

Advocate for Respondent no.2 : Mr. I D Narode

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**CORAM : SMT. VIBHA KANKANWADI &
S. G. CHAPALGAONKAR, JJ.**

Dated : September 12, 2024

ORDER :- (Per S.G. Chapalgaonkar, J.)

1. The applicants seeks to quash FIR in Crime No.290 of 2022, dated 9.7.2022 registered with police station Chikalthana, Aurangabad for offences punishable under sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code as well as R.C.C. No.2559 of 2022 pending before the learned J.M.F.C., At Aurangabad.

2. Respondent No.2 lodged FIR in crime no.290 of 2022 alleging that on 10.4.2016 she married with applicant no.1-Bharat Jadhav as per Hindu rites and customs. After marriage, she was treated well for 3 to 4 months, however, her husband, mother in-law, father-in-law and sisters-in-law started teasing her under the pretext that she has not begotten child or she has no skills of cooking and maintaining home. It is

further alleged that demand was raised to bring money for construction of the house. FIR further stipulates that on 5.7.2022 husband and father-in-law made assault on informant and her father in pursuance of demand of money. On the basis of such averments, crime no.290 of 2022 has been registered against applicants for the offences punishable under sections 498-A, 504, 506, 323, r/w 34 of the IPC. Investigation progressed. Finally charge-sheet came to be filed in the Court of J.M.F.C., at Aurangabad. The RCC bearing no.2559 of 2022 is pending with J.M.F.C. at Aurangabad.

3. Mr. S.S. Kulkarni, learned advocate appearing for the applicants submits that applicants have been falsely implicated in the aforesaid crime. Respondent no.2 herself left matrimonial home and now residing with her parents. On 9.7.2020 applicant no.1 had sent a legal notice for restitution of conjugal rights which was not responded. Consequently, applicant no.1 filed HMP No.156 of 2020 which has been decreed. In spite of decree for restitution of marriage, respondent no.2 did not resume cohabitation and filed false complaint implicating all family members of husband in false criminal case. Mr. Kulkarni would further invite our attention to NCR No.957 of 2021 dated 21.11.2021 registered on complaint of applicant no.1 against respondent no.2 and her family members. He would therefore urge that impugned FIR and RCC No.2559 of 2022 be quashed and set aside.

4. Per contra, Mr. Phule, learned APP and Mr. I D Narode, learned advocate appearing for respondent no.2

vehemently opposed the application contending that contents of the FIR and material in the charge-sheet is sufficient to continue with trial against the applicants.

5. We have considered the submissions advanced by learned advocates appearing for the respective parties, perused contents of the FIR and charge-sheet as well as other documents annexed to the application. Apparently, marriage of the respondent no.2 and applicant no.1 was solemnized in the year 2016. In the year 2020 applicant no.1 had addressed a legal notice to respondent no.2 stipulating that since 12.2.2020 she has left matrimonial house and since then residing alongwith her parents. On 24.7.2020 applicant no.1 instituted HMP No.156 of 2020 in the Court of C.J.S.D., at Aurangabad under section 9 of the Hindu marriage Act seeking decree for restitution of marriage against respondent no.2. The HMP has been allowed vide order dated 29.3.2022 directing respondent no.2 to resume matrimonial relations with applicant no.1.

6. On 28.9.2020 NCR No.734 of 2020 has been registered on complaint of applicant no.3 against respondent no.2 and her family members. In light of aforesaid documentary evidence, it is apparent that there were strained relations between the applicant no.1 and respondent no.2 since long. The decree for restitution of marriage has been passed in favour of applicant no.1 on 29.3.2022 whereas during pendency of said proceeding on 15.9.2021 respondent no.2 made a complaint with Women's Grievance Redressal Unit at Aurangabad first time incorporating allegations of harassment

by in-laws for various reasons including demand of Rs.2 Lakh. The impugned FIR appears to have been registered on 9.7.2022 i.e. after passing the decree for restitution of marriage. Minute scrutiny of the FIR depict that there are omnibus allegations as regards to illegal demand or harassment in pursuance of such demand. No specific attributions are made against any of the applicant regarding individual acts to constitute charged offences. The FIR sans particulars like date, proximate period or overtact against any of the applicants. We find reason to believe that FIR is merely a counterblast to avoid execution of decree passed under section 9 of the Hindu Marriage Act. All family members of husband including married sisters have been made as accused.

7. The Supreme Court of India in case of ***Preeti Gupta and Another Vs. State of Jharkhand and Another AIR 2010 SC 3363*** made certain observations, which are as regards to the matrimonial matters and increasing tendency of misusing penal provisions under Section 498-A of the Indian Penal Code. The observations in paragraph nos.30 and 32 are relevant in present case, which reads thus:

“30. It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

32. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.”

8. Taking into account the aforesaid observations, if contents of the FIR are considered, we find that on the basis of vague and omnibus allegations in the FIR, no offence can be made out against the applicants. On careful scrutiny of the charge-sheet, we find that it contains omnibus and stereo type statements of family members of respondent no.2 without requisite specifications. The entire charge-sheet alongwith FIR is bereft to make out any offences, as alleged. In that view of the matter, we are of the firm view that this is a fit case to exercise our inherent powers under section 482 of the Criminal Procedure Code and quash FIR and consequential proceeding. Hence, we proceed to allow the application in terms of prayer clause “A” thereby quashing and setting aside the FIR No.290 of 2022 registered with Chikalthana Police Station for the offence punishable under sections 498-A, 323, 504, 506 r/w 34 of the IPC as well as charge-sheet no.133 of 2022 and proceeding in RCC No.2559 of 2022 pending before the Judicial Magistrate First Class, Aurangabad.

9. Criminal application stands **disposed off**.

(S. G. CHAPALGAONKAR)
Judge

(SMT. VIBHA KANKANWADI)
Judge

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