



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

CRIMINAL APPLICATION NO. 815 OF 2022

1] Ajabrao s/o Tanaji Bomble,
Age : 70 Years, Occu. : Pensioner,

2] Rekha w/o Ajabrao Bomble,
Age : 62 Years, Occu. : Household,

Both R/o 11th Floor Silver City,
Gat No. 301, Sawatha Mali Temple
Road, Jadhav Wadi, Chikhali,
Pune.

.. Applicants

Versus

1] The State of Maharashtra
(through Kranti Chowk Police
Station, Aurangabad)

2] Dr. Manjusha w/o Nikhil Bomble,
@ Dr. Manjusha D/o Shrirang Dhule,
Age : 34 Years, Occu. : Service,
R/o 4-13-91/66, Lata Kunj,
Sundarnagar, Nageshwarwadi,
Aurangabad.

.. Respondents

Shri Prashant S. Shinde, Advocate for the Applicants.

Shri V. S. Badakh, A.P.P for the Respondent No. 01.

Shri Akshay D. Kulkarni, Advocate for the Respondent No. 2.

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

**CLOSED FOR JUDGMENT ON : 23.01.2024
JUDGMENT PRONOUNCED ON : 09.02.2024**

JUDGMENT (Per Shailesh P. Brahme, J.) :-

. The applicants have invoked jurisdiction of this Court U/Section 482 of the Code of Criminal Procedure for quashment of first information report, charge sheet No. 101/2022 dated 27.08.2022 and R.C.C. No. 1841 of 2022 pending before Judicial Magistrate First Class, Aurangabad. The respondent No. 2 is the informant who has lodged the impugned complaint for the offences punishable U/Sec. 498-A, 504 and 506 r/w Sec. 34 of the Indian Penal Code against the applicants. The applicant No. 1 is the father-in-law and the applicant No. 2 is mother-in-law of the respondent No. 2.

2. It is alleged by the informant that her marriage was solemnized with applicants' son Nikhil on 14.02.2016. They resided at Ahmednagar. Her mother is a widow and the wedding arrangements were made by her mother and brother. On 21.02.2016 she suffered first illtreatment on the count of dissatisfaction of the applicants over the arrangements of marriage and for not giving due respect. She was being consistently illtreated by the applicants and her husband. Her husband was being instigated by the applicants. She was insisted to bring Rs. 10 Lakhs for purchasing a car, by the applicants and her husband. She was thus illtreated and constrained to leave matrimonial home in May 2018. With these allegations first information report was lodged on 10.01.2022 with Kranti Chowk Police Station, Aurangabad.

3. The respondent No. 2 has filed proceedings under the provisions of the Protection of Women from Domestic Violence Act 2005 (for the sake of brevity and convenience hereinafter referred as to the “D. V. Act”) against the applicants and her husband bearing P.W.D.V.A. No. 374 of 2021 before the Judicial Magistrate First Class, Aurangabad. She has also filed H.M.P. No. A-377 of 2021 for dissolution of marriage in the Family Court at Aurangabad. These two proceedings are pending.

4. On 27.08.2022 a charge sheet is filed against the applicants and their son, which culminated into R.C.C. No. 1841 of 2022 pending before the Judicial Magistrate First Class, Aurangabad.

5. The learned counsel for the applicants submits that the allegations against the applicants in FIR are vague and concocted. No specific role has been attributed to them. They are roped in the offence to wreck vengeance. He submits that illtreatment alleged to have occurred on 21.02.2016 at the matrimonial place is concocted because on the relevant date the couple was not in Ahmednagar, but they were in Thailand. He submits that another instance of inherent improbableness is purchasing of a car. A car was already purchased and despite that there is allegation that the informant was being demanded Rs. 10 Lakhs for purchasing car in May 2018.

6. It is further submitted that it would be an abuse of process of law to compel the applicants to face the prosecution. According to the learned counsel no offence can be made out against them. It is further submitted that the applicants are residents of Pune. It is

further submitted that the FIR is inconsistent with the petition presented before the Family Court as well as complaint before the Judicial Magistrate First Class. He would further submit that she left the company of the applicants and Nikhil in May 2018 and after two years the FIR is lodged. The learned counsel seeks reliance upon the judgment of the Supreme Court in the matter of **Shafiya Khan @ Shakuntala Prajapati Vs. State of U. P.** reported in ***2022 LiveLaw (SC) 153***.

7. The learned Assistant Public Prosecutor submits that there is specific role attributable to the applicants which can be seen from the first information report as well as the statements of the witnesses namely mother and brothers of the informant. He would also invite our attention to the complaint made on 08.09.2021 to Bharosa Cell to show that the allegations in the complaint are consistent with the earlier complaint.

8. The learned counsel for the respondent No. 3 has also vehemently opposed the submissions of the applicants. Our attention is invited to the pleadings of dissolution of marriage petition as well as complaint P.W.D.V.A. No. 374 of 2021, to show the incriminating role of the applicants. He would submit that there cannot be eye witness for the illtreatment suffered by the respondent No. 3. Therefore, the complaint and the statements of the witnesses cannot be discarded at this stage of the proceedings. He would further submit that there is demand of Rs. 10 Lakhs which allegation has been consistent.

9. The learned counsel has invited our attention to the incriminating material collected during the course of investigation, receipts of jewellery articles and caterers showing expenses to satisfy the demands of the applicants and co-accused. Our attention is also invited to the order dated 17.03.2022 passed in Criminal Writ Petition No. 243 of 2022. The applicants had approached High Court challenging proceedings of P.W.D.V.A. No. 374 of 2021, which has been dismissed. It is further submitted that the complaint/FIR is not supposed to be encyclopedia. There is cogent material to proceed against the applicants. A full fledged trial is required to bring home the guilt of the applicants. He would submit that there is strong *prima facie* material against the applicants and application is liable to be rejected.

10. We have considered rival submissions of the parties. We have gone through the papers of investigation. Present application has been filed by father-in-law and mother-in-law of the respondent No. 2. On earlier occasion the proceedings under the D. V. Act were challenged in Cri. W. P. No. 243 of 2022 by the applicants, which was dismissed, by order dated 17.03.2022.

11. It is vehemently argued that the first instance of illtreatment alleged to have occurred on 21.02.2016 is inherently improbable because the couple was in Thailand enjoying their quality time. The respondent No. 3 has filed P.W.D.V.A. No. 374 of 2021 before the Judicial Magistrate First Class, Aurangabad. Her pleadings in para No. 13 show that from 19.02.2016 to 26.02.2016 the couple was in Thailand to spend quality time. Apparently, the submission of the learned counsel for the applicants has merit.

However, the incident of 21.02.2016 is not the only instance of illtreatment on which the complaint and the proceedings are founded. There are various other instances. Solely on the ground that the instance of 21.02.2016 would be improbable the entire FIR, charge sheet and the consequential proceedings cannot be quashed.

12. We have noticed that after 21.02.2016 the respondent No. 3 was being subjected to illtreatment on various occasions. She was physically harassed and abused by the applicants. She was compelled to sign few documents for purchasing flat. She was demanded Rs. 10 Lakh for purchasing a car. Thereafter she was constrained to leave matrimonial home in May 2018.

13. The sequence of the events are reasonably consistent in the application bearing P.W.D.V.A. No. 374 of 2021 pending before Judicial Magistrate First Class as well as the petition for dissolution of marriage pending before the Family Court, Aurangabad. We are of the considered view that it would be too hazy to come to any conclusion at this stage of the proceedings holding that the allegations altogether are concocted, requiring no further trial.

14. The learned counsel for the applicants submitted that the four wheeler was already purchased in November 2017 and, therefore, the demand of Rs. 10 Lakhs for purchasing car in May 2018 is concocted. A car was purchased in November 2017. Informant was required to pay an amount of Rs. 70,000/- approximately for the down payment. A careful perusal of the

complaint does not show that in May 2018 she was driven out of the house for not satisfying the demand of Rs. 10 Lakhs for purchasing a car. We do not find any inconsistency in the allegations made in the complaint and in the application pending before the Judicial Magistrate First Class in this regard.

15. The learned counsel for the applicants also submitted that the applicants were residing at Pune and the couple resided at Ahmednagar as there was mentally retarded son to be taken care of. We find that there are specific allegations against the applicants. The submission can be best examined during full fledged trial. At this stage it is not possible to come to the conclusion that just because the address of the applicants is shown to be that of Pune and, therefore, the allegations against them are inherently improbable.

16. The submission of the applicants in respect of purchasing of the flat also can be ascertained after full fledged trial. At this juncture just because husband is paying EMI cannot be a ground to infer that there is no illtreatment on that count.

17. The submissions of the applicants in respect of filing of various proceedings by the respondent No. 2 and belated filing of FIR cannot be considered as a good ground for quashing the complaint and the proceeding. These submissions require full-fledged trial for adjudication.

18. We have considered the statements of mother of the respondent No. 2-Lata and that of brothers as well as complaint

dated 08.09.2021 which was made to Bharosa Cell. The allegations therein are consistent with the FIR in material particulars. Considering the papers of the investigation, we find that the *prima facie* case is made out against the applicants for offence alleged against them. The receipts which are collected during the course of investigation showing purchase of jewellery and house hold articles and receipts of the caterer are relevant and *prima facie* support the allegations made against the applicants. This is not a fit case to quash the proceedings and full fledged trial is necessary to examine the involvement of the applicants and their guilt.

19. For the reasons stated above we are not inclined to grant any relief to the applicants. The criminal application is dismissed.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/Feb. 24