



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 928 OF 2023

- 1) Pramila w/o Narendra Tandale
Age 44 years, Occ. Service,
r/o. Varad Shivneri Residency, Pandit
Nagar, Near Shahu Bank Nagar Road,
Beed, Tq. & Dist. Beed.
 - 2) Swati w/o Vijaykumar Misal,
Age 34 years, Occ. Service,
R/o. Bhagwan Nagar, Nagar Road
Beed Tq. & Dist. Beed
- ... Applicants

VERSUS

- 1) The State of Maharashtra
Through Police Station Officer,
Shivajinagar Police Stataion Beed.
 - 2) Mrs. Ujawala w/o Sudhir Jaybhay,
Age 31 years, Occ. Private Service,
R/o. Kakadhira Tq. Patoda Dist. Beed
at present c/o. Sandya Ankushrao Nagre
Parnakuti Housing Society, Near Vainkatesh
Poublic School, Bhakti Construction,
Tq. & Dist. Beed.
- ... Respondents

...
Advocate for the Applicants : Mr. Suhas R. Shirsat
A.P.P for the Respondent No. 1 : Mr. G.A. Kulkarni
Advocate for Respondent No. 2 : Mr. M.S. Karad

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

DATE : 25.01.2024

ORDER : (PER : MANGESH S. PATIL, J.)

This is an application under Section 482 of the Code of Criminal
Procedure seeking quashment of Crime No. 65/2023, registered with

Shivajinagar Police Station, Beed, District Beed, for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code and the criminal case bearing Regular Criminal Case No. 155/2023 pending before the Judicial Magistrate First Class, Beed.

2. Heard. Rule. Rule is made returnable forthwith. Learned A.P.P. waives service for the respondent no. 1 and learned advocate Mr. Karad waives service for the respondent no. 2. At the joint request of the parties, the matter is heard finally at the stage of admission.

3. The applicants are the married sisters in law of the respondent no. 2. The latter lodged the F.I.R. on 16.02.2023 with the allegations that her marriage was solemnized with the brother of the applicants on 07.12.2014. She was maintained properly for first three years, during which time she could beget a son. Her husband was addicted to liquor and gambling. After three years of marriage he started abusing and beating her. The parents in law were instigating him. Thereafter they started insisting her to bring Rs. 10 lakhs for him to start some business. She was being kept starving and was thus subjected to physical and mental cruelty.

4. As regards the present applicants are concerned, the F.I.R. reads that though they were married, they used to instigate the husband and parents in law whereupon she was subjected to cruelty. In the festival of Diwali of 2017 at their instigation the husband abused and assaulted her and by removing the ornaments from her person, she was driven out of the house by expressly declaring that she would be allowed to resume matrimonial tie only if she was able to bring money. It is then submitted that some how she could resume cohabitation. But the illtreatment continued and ultimately she was driven out of the house

in March 2019.

5. The learned advocate for the applicants would submit that admittedly, the applicants are married since before the marriage of the respondent no. 2. The allegations in the F.I.R. and even in the statement of the witnesses are vague and omnibus. There are no specific allegations about the applicants themselves having subjected the respondent no.2 to cruelty. There is enormous delay in lodging the F.I.R. The applicants are being implicated with an ulterior intention to harass them. It would be sheer abuse of process of law to make the applicants face the trial based on such vague, omnibus and unsubstantiated allegations.

6. The learned A.P.P. and the learned advocate for the respondent no. 2 would oppose the application. They would submit that specific role has been attributed to the applicants. They have been instigating the husband and the parents in law pursuant to which they have subjected the respondent no. 2 to cruelty. The F.I.R. is not supposed to be an encyclopedia. An opportunity needs to be extended to the prosecution to substantiate the role. It is not uncommon for the married daughters to return to the parental home during festivities. It is not a case of the allegations being improbable.

7. We have considered the rival submissions and perused the papers. Indeed, F.I.R. is not supposed to contain all the details and particulars and the only purpose to lodge the F.I.R. is to set the criminal law in motion. There cannot be any debate on this count.

8. However, the investigation in the matter in hand has subsequently been concluded and a final report has been submitted by the investigating officer in the form of charge-sheet. Consequently, it is imperative for the prosecution to demonstrate the role attributable to

each of the applicants in subjecting the respondent no. 2 to cruelty.

9. A careful perusal of the F.I.R. as also the statements of the witnesses recorded under Section 161 of the Code of Criminal Procedure of her mother Sandhya, grandmother Janabai, maternal uncle Govind and the paternal uncle Shahadev, are almost identical as far as the role they attribute to the applicants. All these statements only allege about exhortation by the applicants pursuant to which the husband and parents in law allegedly subjected the respondent no. 2 to cruelty. Conspicuously, the F.I.R. and the statements do not expressly attribute the applicants themselves having illtreated the respondent no. 2.

10. Assuming that though they are married sisters of the husband and must have been coming back to the parental home during festivities, still, the fact remains that there are no allegations about they ever having subjected the respondent no. 2 to cruelty.

11 Except the vague and bald statements in the F.I.R. and the statements of the witnesses, there is nothing in the charge-sheet to reveal any role of either of the applicants in subjecting the respondent no. 2 to cruelty.

12. Considering the usual tendency in such matters as is noticed in the matters of (1) **Preeti Gupta and another Vs. State of Jharkhand and another**; 2010 A.I.R. (SC) 3363, (2) **Geeta Mehrotra and another Vs. State of U.P. and another**; 2013 A.I.R. (SC) 181, (3) **Kahkashan Kausar @ Sonam and Others Vs. State of Bihar and others**; 2022 A.I.R. (SC) 820 and bearing in mind the principles laid down in the matter of ***State of Haryana and Ors V/s. Bhajan Lal and Ors.: AIR 1992 Supreme Court, 604***, it would be abuse of the process of law if the applicants are made to face the prosecution based on the quality of material has been

collected during investigation.

13. The Application is allowed. Crime No. 65/2023, registered with Shivajinagar Police Station, Beed, District Beed, for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code and the consequent charge-sheet and the criminal case bearing Regular Criminal Case No. 155/2023 pending before the Judicial Magistrate First Class, Beed are quashed and set aside to the extent of the applicant no. 1-Pramila w/o Narendra Tandale and applicant no. 2 Swati w/o Vijaykumar Misal.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-