



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

19 CRIMINAL APPLICATION NO.632 OF 2021

- 1 Gajendra Rohitkumar Saraswat,  
Age 32 yrs., Occ. Business,
- 2 Kalpana Rohitkumar Saraswat,  
Age 53 yrs., Occ. Household,
- 3 Rohitkumar Dalchand Saraswat,  
Age 57 yrs., Occ. Nil,

Applicant Nos.1 to 3 are  
R/o Pailya Road, Nagda,  
Ujjain, Madhya Pradesh.

- 4 Priyanka Mayank Joshi,  
Age 30 yrs., Occ. Household,  
R/o Bramhan Mohalla, Kukdeswar,  
Nimach, Madhya Pradesh.

... Applicants

... **Versus** ...

- 1 The State of Maharashtra  
Through Police Station, Sadar Bazar,  
Jalna, Tq. & Dist. Jalna.
- 2 Kalyani Gajendra Saraswat,  
Age 30 yrs., Occ. Household,  
R/o Nagda, Dist. Ujjain.  
(Madhya Pradesh)  
At present Pivala Bungalow,  
Near Ambar Hote, Sadar Bazar,  
Jalna.

... Respondents

...

Mr. S.E. Siddiqui, Advocate for applicants

Mr. V.K. Kotecha, APP for respondent No.1

Mr. Sumant S. Kulkarni, Advocate for respondent No.2

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**CORAM : SMT. VIBHA KANKANWADI &  
R.W. JOSHI, JJ.**

**DATE : 18<sup>th</sup> NOVEMBER, 2024**

**ORDER :**

1 Present application has been filed under Section 482 of the Code of Criminal Procedure, 1973 initially for quashing First Information Report vide Crime No.73/2021 dated 25.01.2021 registered with Sadar Bazar Police Station, Jalna, Tq. & Dist. Jalna and later on by way of amendment for quashing the proceedings in Regular Criminal Case No.409/2021 pending before learned Chief Judicial Magistrate, Jalna for the offence punishable under Sections 498-A, 323, 504 of the Indian Penal Code, 1860.

2 It will not be out of place to mention here that when this Court had shown disinclination to grant any relief to applicant No.1 – husband under the order passed by this Court on 28.09.2021, the application stood disposed of as withdrawn as against him.

3           It is not in dispute that respondent No.2 got married to original applicant No.1 – husband Gajendra in 2011. They had a daughter aged 08 on the day of First Information Report i.e. on 25.01.2021. Present applicant Nos.2 and 3 are parents-in-law and applicant No.4 is the married sister-in-law of respondent No.2. Applicant No.4 resides at Bramhan Mohalla, Kukdeshwar, Nimach, Madhya Pradesh.

4           Perusal of First Information Report and contents of charge sheet would show that according to respondent No.2, she was treated properly by the accused persons for about 4-5 years and thereafter the harassment was on the count that she is unable to do household work, she was not approved or liked by the accused persons and her marriage with applicant No.1 was forceful. Then she says that after she had questioned the alleged illicit relations of the husband with other ladies, then the accused persons intensified the ill-treatment, which was in the nature of abuses, assault and keep her starving. Though there was an attempt by her parents to persuade the accused persons, it had not yielded any positive response. She says that she was driven out of the house about six months prior to the First Information Report.

5           Therefore, after taking account of these contents as regards

applicant Nos.2 to 4 are concerned, those allegations are not specific. Applicant Nos.2 and 3 might be residing with applicant No.1; yet, it is rather unbelievable that after 4-5 years of happy married life, even the in-laws would start saying that they had forced the husband for the marriage. As regards the alleged illicit relations are concerned, those allegations are against the husband, but then she says that when she asked about the same to the husband, then the other accused also started harassment. If we consider the nature of harassment as stated, then they do not attract the ingredients of either Explanation 'A' or Explanation 'B' of Section 498 of the Indian Penal Code. It appears that with the motive that all the family members should be roped in, their names have been included.

6           As regards the statements of witnesses are concerned, they are giving more details than the First Information Report and thereby they wanted to make more specific allegations which are then not supported by the wife. The source for the witnesses, who are the relatives of respondent No.2, was respondent No.2 herself. Under such circumstance, this would be a fit case where we should exercise our powers under Section 482 of the Code of Criminal Procedure taking help of the observations and the ratio laid down in **State of Haryana and others vs. Ch. Bhajan Lal and others** [AIR 1992 SC 604]. We, therefore, proceed to pass the following order.

**ORDER**

- i) Criminal Application stands allowed in respect of prayers for applicant Nos.2, 3 and 4.
- ii) Criminal Application stands disposed of as withdrawn as against applicant No.1.
- iii) First Information Report vide Crime No.73/2021 dated 25.01.2021 registered with Sadar Bazar Police Station, Jalna and the proceedings in Regular Criminal Case No.409/2021 pending before learned Chief Judicial Magistrate, Jalna, for the offence punishable under Sections 498-A, 323, 504 of the Indian Penal Code, 1860 stand quashed and set aside as against applicant Nos.2 to 4.

( R.W. JOSHI, J. )

( SMT. VIBHA KANKANWADI, J. )

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