



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.865 OF 2021

1. Vishal Ashok Pawar
Age: 34 years, Occu.: Labour,
2. Savitribai Ashok Pawar
Age: 52 years, Occu.: Household,
Both applicant Nos.1 and 2
r/o. Near Hanuman Mandir, Sati-fail,
Khamgaon, Dist. Buldhana.
3. Naresh Ashok Pawar
Age: 42 years, Occu.: Pvt. Service,
R/o. Rekha Plot, Sati-fail,
Khamgaon, Dist. Buldhana.
4. Dipa Satishrao Kamble
Age: 36 years, Occu.: Housewife,
R/o.104, Old Bus Stand, Gautam Ward,
Hingan Ghat, Dist. Wardha.
5. Megha Ganesh Ambekar
Age: 33 years, Occu.: Housewife,
R/o.38/1/50, Shree Nagar,
Lane No.1, Near Ram Krushna Mangal
Karyalay, Pimple Gurav, Tq. Haveli,
Dist. Pune.
6. Radhabai Dattatraya Thorat
Age:68 years, Occu.: Nil,
R/o. House No.1, Ward No.28,
Khamgaon, Dist. Buldhana,

**(Applicant No.6 deleted
as per order dated 06.12.2023)**

.. Applicants

Versus

1. State of Maharashtra
Through Bamani Police Station,
Taluka Jintoor, District Parbhani.

2. Rani Vishal Pawar
Age: 27 years, Occu.: Household,
R/o. c/o Madhavrao Kisan Kalsait,
Wazar, Taluka Jintoor, District Parbhani.

.. Respondents

...
Mr. Shyamsunder H. Jagiasi, Advocate for the applicants.
Mr. S. S. Dande, APP for the respondent No.1 – State.
Mr. Swapnil S. Rath, Advocate for respondent No.2.
...

**CORAM : SMT. VIBHA KANKANWADI &
ABHAY S. WAGHWASE, JJ.**

DATE : 20 AUGUST 2024.

ORDER [Per Smt. Vibha Kankanwadi, J.]

. Present application has been filed under Section 482 of the Code of Criminal Procedure for quashing the FIR as well as the charge-sheet, which came to be filed during the pendency of the present application.

2. Respondent No.2 filed FIR vide Crime No.111 of 2019 on 30.11.2019 against the applicants for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code with Bamani Police Station, District Parbhani. After the investigation, charge-sheet bearing No.71 of 2021 has been filed on 27.11.2021, which is now numbered as R.C.C. No.313 of 2021 before the learned Judicial Magistrate First Class, Jintoor, District Parbhani.

3. Heard learned Advocate Mr. Shyamsunder H. Jagiasi for the applicants, learned APP Mr. S. S. Dande for respondent No.1 – State and learned Advocate Mr. Swapnil S. Rathi for respondent No.2.

4. It is not in dispute that applicant No.1 got married to respondent No.2 on 04.05.2018 and they have daughter of nine months on the date of the FIR. Applicant No.1 is the husband of respondent No.2, applicant No.2 is her mother-in-law, applicant No.3 is the brother-in-law, applicant Nos.4 and 5 are the married sister-in-laws and applicant No.6 was the grandmother-in-law, who expired and, therefore, her name came to be deleted by order dated 06.12.2023.

5. Though it is also tried to be contended on behalf of the applicants that the offence took place in Khamgaon, District Buldhana, which is the matrimonial home of respondent No.2, yet the FIR has been lodged with Bamani Police Station in Parbhani District and, therefore, the said case/charge-sheet should be transferred to the appropriate Court at Khamgaon. However, in view of the decision of the Hon'ble Supreme Court in **Rupali Devi Vs. State of Uttar Pradesh and Others, [(2019) AIR (SC) 1790]**,

the FIR can be lodged at the place where the informant/wife is now residing and, therefore, there is no necessity to transfer the case. Perusal of the FIR would show that main allegations are against the husband and his mother. Though it is stated that applicant No.3 was also taking part in ill treatment, yet it is to be noted that he appears to be the elder brother of applicant No.1 – husband, who is certainly married and there are absolutely no allegations against his wife. It gives a picture that he is residing separately and to that extent, the address has been given by applicant No.3. It is not clarified in the FIR as well as in the statements of witnesses as to why the married sisters-in-law were residing in the matrimonial home of respondent No.2. A picture has been tried to be painted that they were permanently residing with applicant Nos.1 and 2. It can be seen that only to rope all the family members of the husband, these allegations are made as against those persons. The allegations against those persons are in the nature of instigation, but the words of instigation have not been stated. Further, mere demand will not attract the ingredients of the offence against them; as for the offence punishable under Section 498-A of Indian Penal Code, there should be coercion or ill treatment for the fulfillment of illegal

demand. The specific acts as against applicant Nos.3, 4 and 5 are not stated and, therefore, we find this to be a fit case for quashing the FIR as against them.

6. For the aforesaid reasons, we proceed to pass the following order :-

ORDER

- I) The Criminal Application is partly allowed.
- II) The FIR vide Crime No.111 of 2019 registered with Bamani Police Station, Taluka Jintoor, District Parbhani and the proceedings in R.C.C. No.313 of 2021 pending before the learned Judicial Magistrate First Class, Jintoor, for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code, stand quashed and set aside as against applicant Nos.3, 4 and 5.
- III) The case stood abated as against applicant No.6.
- IV) The application stands rejected as against applicant Nos.1 and 2.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm