



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

983 CRIMINAL APPLICATION NO. 1466 OF 2022

1. Bushra Feroz Syed @
Shaikh Bushra Begum Shaikh Chand
2. Syed Feroz Syed Rehmatullah
3. Syed Afsha Sadaf Syed Feroz @
Afsha Safran Syed
4. Salma Juned Khan @
Syeda Umma Salma Syed Feroz
5. Syed Shahed Saleem Syed RahetmullahApplicants

Versus

1. The State of Maharashtra
2. Rubiya Sanobar Ammar SyedRespondents

Advocate for Applicant Nos. 1 to 4 : Mr. Rajebhosale Sandeep B. and
Mr. Hashmi Taufeeque Ahmed

APP for Respondent No. 1 : Mr. G.A. Kulkarni

Advocate for Respondent No. 2 : Mr. Anand D. Wange

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

DATE : 07 FEBRUARY 2024

PER COURT (PER: SHAILESH P. BRAHME, J.) :

Heard learned counsel for the litigating sides finally with
their consent.

2. At the outset, it needs to mention that application survives
to the extent of applicant nos. 3 and 4.

3. When we expressed our disinclination after hearing the
parties, learned counsel for the applicants sought permission to withdraw

the application to the extent of applicant nos. 1 and 2. The application stands disposed of as withdrawn to their extent. By earlier order dated 29.04.2022 application to the extent of applicant no. 5 stood disposed of as withdrawn.

4. The applicants are seeking quashment of FIR bearing CR No. 0101 of 2022 of Ambajogai City Police Station, District Beed, Charge-sheet and consequential RCC No. 93 of 2022 pending before 3rd Judicial Magistrate First Class, Ambajogai. Applicant nos. 1 and 2 are parents-in-law of respondent no. 2 – Informant. Applicant Nos. 3 and 4 are married sisters-in-law of the Informant. They are facing prosecution for offence punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

5. Respondent no. 1 lodged compliant alleging that her marriage was performed with co-accused Ammar Feroz Syed on 16.09.2019. Expenses of the marriage were borne by her father. For initial five months, she was being treated cordially by the applicants. Thereafter, she was being ill-treated. On 06.02.2022, she was beaten up and threatened also. On 15.09.2020, she delivered baby girl which was not liked by the applicants. They did not bother to see the baby. She was being pressurized. She was being asked to bring Rs. 8 Lakhs for purchasing four wheeler. Hence, she was required to approach police.

6. The investigation was conducted and charge-sheet was filed on 29.03.2022. It is culminated into RCC No. 93 of 2022 which is pending before 3rd Judicial Magistrate First Class, Ambajogai.

7. Learned counsel for the applicants submits that the allegations in the complaint are omnibus and lacks material particular to attract ingredients of the offence alleged. In view of the ratio laid down in the matter of *Kahkashan Kausar alias Sonam Versus State of Bihar and others*, **AIR 2022 SC 820**, *Mohmood Ali and others Versus State of U.P., and others*, **AIR 2023 SC 3709** and *Abhishek Versus State of Madhya Pradesh*, **AIR Online 2023 SC 674**, impugned FIR and the proceedings are liable to be quashed.

8. It is further submitted that applicant nos. 3 and 4 are the married sisters and they are resident of Pune and Beed, respectively. They had no occasion to stay with the informant and cause any ill-treatment. No specific role has been attributed against them. It is further submitted that there is delay in lodging FIR, which is registered on 09.03.2022. The allegations are improbable and made to wreck vengeance.

9. Learned APP and learned counsel for respondent no. 2 would vehemently oppose the submissions of the applicants. They would

submit that the allegations are serious in nature and their role is specifically quoted in the complaint. The married sisters had occasion to stay with the Informant during which she was subjected to ill-treatment. It is further submitted that the submissions complicity of the applicants needs to be decided by full-fledged trial. According to them, this is not a fit case to exercise jurisdiction under Section 482 of the Code of Criminal Procedure.

10. We have considered the submissions advanced by the learned counsel of the litigating sides. We have carefully perused the papers of investigation. Applicant nos. 3 and 4 are married sisters. They are shown to be residents of Pune and Beed, respectively. The Informant cohabited with her husband and the applicants at Beed. Instance of 06.02.2020, quoted in the compliant shows incriminating role of husband. Another instance of 18.11.2011, also does not indicate incriminating role of applicant nos. 3 and 4. Impugned FIR does not spell out specific role of applicant nos. 3 and 4.

11. We have gone through written complaint submitted by informant on 22.09.2019, to Conciliation Officer, Ambajogai Police Station, District Beed. The allegations levelled against applicant nos. 3 and 4 in the written complaint are inconsistent with First Information Report. The statements recorded during the course of Investigation under

Section 161 of Cr.P.C., also do not spell out specific role of the applicant nos. 3 and 4. Therefore, we are inclined to accept submissions of learned counsel for the applicants that no case is made out as against applicant nos. 3 and 4.

12. It appears from the record that since 17.09.2020, informant is residing with her parents. She approached police for the first time on 22.09.2021. Thereafter, FIR was lodged on 09.03.2021. The record reveals that relations between the informant and the applicants are strained. Possibility of implicating applicant nos. 3 and 4 falsely cannot be ruled out.

13. Learned counsel for the applicants has rightly referred to law laid down in the matter of *Kahkashan Kausar alias Sonam and others* (supra), especially paragraph nos. 18 which is as follows :

“18. The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of [section 498-A IPC](#) and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left

unchecked would result in misuse of the process of law. Therefore, this court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.”

14. He further relies upon on *Mahmood Ali and others* (supra) of its paragraph no. 12. We are inclined to apply the ratio. We find that the allegations and the involvement of applicant nos. 3 and 4 are improbable. It would be abuse of process of law to compel them to face the prosecution. We, therefore, pass following order :

ORDER

- i. FIR bearing CR No. 0101 of 2022 of Ambajogai City Police Station, District Beed, Charge-sheet and consequential RCC No. 93 of 2022, pending before 3rd Judicial Magistrate First Class, Ambajogai, are quashed and set aside to the extent of applicant nos. 3 and 4.
- ii. Criminal Application is allowed in above terms.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]