



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

CRIMINAL APPLICATION NO. 1607 OF 2023

1. Ganesh s/o Madhukar Somwanshi (Patil)
 2. Sumanbai w/o Madhukar Somwanshi (Patil)
 3. Pankaj s/o Madhukar Somwanshi (Patil)
 4. Bharti w/o Pankaj Somwanshi (Patil)
 5. Raosaheb s/o Madhukar Somwanshi (Patil)
 6. Swati w/o Raosaheb Somwanshi (Patil)
 7. Hemant s/o Jijabrao Bhamare
 8. Manoj s/o Pandharinath Bhadane
 9. Jyoti w/o Manoj Bhadane
- ...Applicants**

VERSUS

1. The State Of Maharashtra
 2. Ujjwala w/o Ganesh Somwanshi (Patil)
- ...Respondents**

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Advocate for Applicants : Mr. Suniket A. Kulkarni and
Ms. Rutuja L. Jakhade

APP for Respondent No. 1 : Mr. K. N. Lokhande

Advocate for Respondent No.2 : Ms. S.T. Kazi

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

DATE : 2 FEBRUARY 2024

FINAL ORDER {Per : Shailesh P. Brahme, J.} :

1. Heard both the sides finally at the admission stage.

2. When we express our disinclination, the learned Counsel for

the applicants seeks leave to withdraw application to the extent of applicant nos. 1 to 4. Thus, the application as against them is disposed of as withdrawn. We are considering the application to the extent of applicant nos. 5 to 9.

3. The applicants are invoking jurisdiction of this Court under Section 482 of Code of Criminal Procedure for quashment of F.I.R bearing C.R. No. 38 of 2023 registered with Songeer Police Station, Taluka and District Dhule.

4. The Respondent No. 2 lodged First Information Report on 21.02.2023 against the applicants for offences under Sections 498A, 323, 504, 506 read with 34 of the Indian Penal Code.

5. The applicant no.1 and 2 are husband and mother-in-law of respondent no.2 respectively. Applicant no.3 is the brother-in-law, applicant no.4 is his wife and applicant no.5 is another brother-in-law of respondent no.2. The applicant no.6 is wife of applicant no.5. The applicant no.7 to 9 are the relatives of the husband. The marriage of the applicant no.1 and respondent no.2 was solemnized on 25.04.2018. They have a son born out of the said wedlock.

6. The respondent no.2 stated in her complaint that applicant no.1 was in service of armed forces. They were resident of Ram Boris. After the initial period of one month, applicants started

demanding Rs.10 lakhs for purchasing flat. She was subjected to physical and mental torture to satisfy the demand. The co-accused used to instigate applicant no.1 who started suspecting her fidelity. In June, 2022 the applicant nos.7 to 9 ill-treated the informant by visiting her place at Dhule.

7. Learned Counsel for the applicants submits that there are no specific allegations against the applicant nos. 5 to 9. They are falsely implicated in the offence considering the strained relationship between informant and applicant nos. 1 to 4. It is further submitted that applicant nos. 7 to 9 are not resident of Ram Boris and had no occasion to cause any ill-treatment, but they are vindictively roped in. He would further submit that there is already proceeding for dissolution of marriage filed by applicant no.1 on 22.08.2022 before the Family Court against the informant. There are exchange of complaints between applicant no.1 and the respondent no.2 with which the applicant nos. 5 to 9 are not concerned. He would submit that it would be abuse of process of law to proceed against the applicants.

8. Learned APP and learned Counsel for the respondent no.2 would submit that there is sufficient material on record disclosing the active role played by the applicant nos. 5 to 9. The respondent no.2 was being harassed for Rs.10 Lakhs. Her fidelity was suspected and the applicant nos. 7 to 9 used to act in collusion with the applicant no.1. A supplementary statement of respondent no.2 is

being pointed out to show that the applicant nos. 6 to 9 played incriminating role in causing ill-treatment. He would further submit that the statement recorded during the course of investigation would disclose complicity of the applicants.

9. We have considered rival submissions of the parties. We have gone through the papers which are tendered during the course of argument by the learned APP. The application to the extent of applicant nos. 1 to 4 has been withdrawn. It reveals from the record that the applicant no.1 is serving in the armed forces and was posted at different places after the marriage.

10. The applicant no.1 sought information from the police station on 03.08.2022. By reply dated 09.08.2022, he was supplied statements of Ujwala and Rakesh which were recorded on 28.07.2022. Rakesh appears to be the paramour of the respondent no.2. The extra-marital relationship is shown to have been admitted in the statements. On the basis of those statements, a complaint appears to have been made by the applicant no.1 on 12.01.2023 to the police station against the informant. On 23.11.2022, informant submitted complaint to the police station stating the circumstances under which the statements dated 28.07.2022 were got executed by exerting coercion and threats. On 22.08.2022, the applicant no.1 filed proceeding for dissolution of marriage which is pending. Thereafter on 21.02.2023, FIR under challenge was lodged by the respondent no.2

11. Above sequence of events demonstrates that the relations between the applicant no.1 and the respondent no.2 are strained. They have levelled serious allegations against each other. The proceeding for dissolution of marriage is pending before the competent Court. This background will have to be considered in appreciating the allegations levelled by the respondent no.2 against applicant nos. 5 to 9.

12. Applicant nos. 7 to 9 are not residents of the place where the couple has their permanent resident that is Ram Boris, Taluka and District Dhule. FIR and the statements of the witnesses recorded during the course of investigation do not show specific role of the applicant nos. 5 to 9. The allegations regarding demand of dowry of Rs. 10 Lakhs involving brother-in-law and his wife are vague. There are two brothers-in-law and their wives. Further instance of June 2022 does not indicate incriminating role against applicant nos. 7 to 9. Learned Counsel for the applicants has rightly submitted that no prima facie case can be made out against applicant nos. 5 to 9 reading the complaint as it is.

13. The relations between the applicant no.1 and the informant are strained. There are allegation and the counter allegations. There is every room to believe that the applicant nos. 5 to 9 are being falsely implicated. There is nothing on record to show that the applicant nos. 5 to 9 had an occasion to cause any ill-treatment to the respondent no.2. In view of the principles laid

down by the Supreme Court in the matter of **Geeta Mehrotra and Ors. Vs. State of U.P. and Ors.**, AIR 2013 SC 181, we hold that the application to the extent of applicant nos. 5 to 9 succeeds.

14. Case in hand is squarely covered by law laid down in **State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors.**, reported in AIR1992 SC 604. Criminal Application is allowed partly to the extent of applicant nos. 5 to 9.

15. FIR bearing C.R. No.38/2023 registered with Songeer Police Station, Taluka and District Dhule is quashed and set aside to the extent of applicant nos. 5 to 9.

(SHAILESH P. BRAHME J.)

(MANGESH S. PATIL, J.)