



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

CRIMINAL APPLICATION NO. 1698 OF 2022

1. Savita Prashant Adbhai,
Age : 42 Years, Occu. : Household,
R/o Flat No. 4, Nand Mihir
Apartment, Professor Colony,
Savedi, Ahmednagar.

2. Tanaji Bahiru Dhage,
Age : 69 Years, Occu. : Retired,

3. Nalani Tanaji Dhage,
Age : 66 Years, Occu. : Household,

Both R/o Plot No. 141, Ambai
Road, Near Vishampyana School,
Mahatma Nagar, Nashik.

.. Applicants

Versus

1. The State of Maharashtra.

2. Sheetal Nilesh Dhage,
Age : 33 years, Occu. : Household,
R/o Plot No. 141, Mahatma Nagar,
Nashik at present
R/o Sai Nagar, Saikrupa Nivas,
Rahuri, Tq. Rahuri,
Dist. Ahmednagar.

.. Respondents

Shri Rajendra K. Temkar, Advocate for the Applicnats.
Ms. R. R. Tandale, A.P.P. for the Respondent No. 1.
Shri Akshay H. Bankapur, Advocate h/f Shri R. B. Narvade Patil,
Advocate and Sandeep D. Shinde, Advocate for the Respondent
No. 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 22 MARCH 2024.**

FINAL ORDER (*Per Shailesh P. Brahme, J.*) :-

. Heard both the sides finally.

2. After hearing learned counsel for the parties for a while, when we expressed our disinclination to grant any relief in favour of applicant Nos. 2 and 3, learned counsel for the applicants seeks leave to withdraw criminal application to the extent of applicant Nos. 2 and 3. Hence criminal application is disposed of as withdrawn to the their extent.

3. We proceed to consider the criminal application of the applicant No. 1/Savita Prashant Adbhai, who is sister-in-law of the informant/respondent No. 2.

4. Respondent No. 2 approached police on 02.07.2021 alleging that she was married with Nilesh Tanaji Dhange, on 02.03.2008. She was harassed from the year 2009 for having begotten a baby girl and further tortured for not conceiving a son. She was being demanded Rs. 1,50,000/- for household expenses as her brothers were well off. It is further alleged that applicant No. 1 and other in laws subjected her to all sorts of illtreatments, physical and mental. Her brother Prashant was required to transfer Rs. 1,50,000/- but unsatisfied with that he further demanded Rs. 1,00,000/-. Ultimately, informant was required to leave the

matrimonial home on 22.02.2021.

5. Offence was registered as CR No. 511/2021 punishable U/Sec. 498-A, 323, 504, 506 r/w Section 34 of the Indian Penal Code with Rahuri Police Station against husband, parents-in-law and sister-in-law. Impugned offence is investigated and charge sheet is filed on 23.11.2021. Applicant No. 1 is seeking quashment of FIR and the charge sheet.

6. Learned counsel for the applicants submits that the applicant No. 1 is falsely implicated in the offence. She was married for seven years and has been residing at Ahmednagar which is considerably away from Nashik, where informant resided in the matrimonial home. It is further submitted that the applicant No. 1 had been to Kota with both children. The allegations are inherently improbable. No *prima facie* case can be made out against the applicant and proceedings are liable to be quashed.

7. Learned Assistant Public Prosecutor and the learned counsel for the respondent No. 2 repel the submissions of the learned advocate for applicants. According to them there is incriminating role attributed to the applicant No. 1. There is online payment on 14.04.2018 by the brother of the informant to the accused No. 1/husband. Learned counsel for the respondent No. 2 would point out affidavit in reply to show that in the year 2019 an amount of Rs. 1,50,000/- was transferred to the accused No. 1/husband. There is incriminating material available to

proceed against the applicant. It is further pointed out that the applicant No. 1 was not at Kota when the actual illtreatment was caused and she abetted the offence. Our attention is invited to non cognizable case registered on 02.07.2021 against the accused persons. Lastly, it is submitted that the proceedings cannot be thwarted at this stage and full fledged trial is warranted.

8. We have considered rival submissions of the parties. We have gone through the papers of investigation. It is not disputed that applicant No. 1 is a married sister-in-law of the informant and she resides at Ahmednagar. Informant after marriage resided with other accused persons at Nashik.

9. FIR and statements of informant and her relatives do not attribute specific role to the applicant No. 1, though there are specific allegations against other accused persons.

10 We have considered affidavit in reply of the respondent No. 2. Although there is compliance of demand of money on couple of occasions, no role can be attributed to the applicant No. 1. We are of the considered view that no offence is made out against her. Informant appears to have approached Bharosa Cell on or about 26.06.2021 making allegations only against her husband Nilesh. Impugned FIR appears to be improvisation. In all probabilities the applicant No. 1 appears to have been roped in to seek vengeance. In view of principles laid down by the Supreme Court in the matters of Kahkashan Kausar @ Sonam and others Vs. State of Bihar reported in (2022) 6 SCC 599 and Geeta Malhotra

and another Vs. State of U. P. and another reported in *(2012) 10 SCC 741*, this is fit case to quash the proceedings. We, therefore, pass following order.

O R D E R

- (i) The criminal application is partly allowed to the extent of the applicant No. 1.
- (ii) Impugned FIR bearing CR No. 511/2021 for the offence punishable U/Sec. 498-A, 323, 504, 506 r/w Section 34 of the Indian Penal Code with Rahuri Police Station and consequential charge sheet and proceedings in R.C.C. No. 610 of 2021 pending before the Judicial Magistrate First Class, Rahuri are quashed and set aside to the extent of applicant No. 1.
- (iii) The criminal application is disposed of.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb/March 24