



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1743 OF 2022

- 1) Arsiya Iliyas Shaikh,
Age 28 years, Occ. Doctor.
- 2) Iliyas Amin Shaikh,
Age 28 years, Occ. Architect.
- 3) Dr. Amin A. Shaikh,
Age 60 years, Occ. Architect.
Nos. 1 to 3 r/o. Row-House No. 45,
Ravi Park, Hadapsar Pune,
- 4) Jameer Ismail Manyar,
Age 45 years, Occ. Business.
- 5) Ismail Yousuf Manyar,
Age 70 years, Occ. Business.
Nos. 4 & 5 R/o. Handewadi Road,
Jain Township, Chintamani Nagar,
Hadapsar, Pune.

... Applicants.

VERSUS

- 1) The State of Maharashtra,
Through Police Station Bhusawal
Bazarpeth, Dist. Jalgaon.
- 2) Rufina Naaz Arshad Attar,
Age 27 years, Occ. Household,
R/o. C/o. Abdul Rafiq Abdul Rashid,
Rufina Manzil, 8/40, Azad Nagar,
Khadka Road, Near Bohri Kabrastan,
Bhusawal, Tq. Bhusawal, Dist. Jalgaon.

... Respondents

WITH
CRIMINAL APPLICATION NO. 1744 OF 2022

- 1) Arshad s/o Harun Attar,
Age 30 years, Occ. Service.

- 2) Harun s/o Yousuf Attar,
Age 60 years, Occ. Retired.
- 3) Tabassum w/o Harun Attar,
Age 51 years, Occ. Household.
All are r/o. B-2, Pratibha Residency,
Sasane Nagar, Hadapsar, Pune.

... Applicants.

VERSUS

- 1) The State of Maharashtra,
Through Police Station Bhusawal
Bazarpeth, Dist. Jalgaon.
- 2) Rufina Naaz Arshad Attar,
Age 27 years, Occ. Household,
R/o. C/o. Abdul Rafiq Abdul Rashid,
Rufina Manzil, 8/40, Azad Nagar,
Khadka Road, Near Bohri Kabrastan,
Bhusawal, Tq. Bhusawal, Dist. Jalgaon.

... Respondents

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Advocate for Applicants : Ms. Roopa V. Daxini
A.P.P. for Respondent no.1/State : Mrs. VN. Patil-Jadhav
Advocate for Respondent no. 2 : Mr. B.R. Kedar

CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.
DATE : 12.03.2024

PER COURT :

By these separate applications under Section 482 of the Code of Criminal Procedure, the respective applicants, who are accused in Crime No. 105/2022, registered with Bhusawal Bazarpeth Police Station, Tq. Bhusawal, District Jalgaon, for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code, are seeking quashment of the crime and the charge-sheet No. 55/2022.

2. We have heard both the sides finally at the stage of admission with their consent.

3. The applicants no. 1 to 3 in Criminal Application No. 1744/2022 are the husband of the respondent no. 2 and his parents, who have been arraigned as accused no. 1 to 3, whereas the applicants in Criminal Application No. 1743/2022 are the sister of the husband, her husband, her father in law, maternal uncle of the husband, maternal grand father of the husband, who have been arraigned as accused nos. 4 to 8.

4. The sum and substance of the allegations, as can be deduced from the charge-sheet are to the effect that marriage of the respondent no. 2 was solemnized on 29.08.2021. After the marriage she started cohabiting with the husband at the matrimonial home in Hadapsar, Pune. Her sister in law, with her husband, his maternal grandfather and the in laws of the sister in law also reside in Hadapsar, Pune.

5. Immediately after the marriage the husband started illtreating her, used to taunt her. He had borrowed loan of Rs. 30 lakh and started insisting her to bring money for repaying it. When she denied, stating that she had no capacity to pay, she was abused and was warned not to make any phone call to her parents.

6. Ultimately, on 3.10.2021 they sent her back to the parents. Thereafter, it was revealed that she was pregnant. When she demanded money from the husband for undergoing sonography, he refused to pay. Thereafter, her mother in law made a phone call to her, abused her and asked her to tell her mother to transfer money for an air-conditioner and a wardrobe.

7. It is then alleged that on 18.10.2021 her husband brought her back from Bhusawal. Immediately thereafter her mother in law asked her as to if she had brought money and again drove her out of the house. Her husband then called father of the mother in law, who convinced her mother in law, whereupon she was allowed to enter into the house.

8. It is then alleged that even thereafter the husband continued

demanding money. Mother in law used to assault her. The sister in law used to frequent to her home and used to abuse her. On 22.10.2021 she was pushed to the ground during a quarrel, because of which she started experiencing pain in abdomen. She was taken to a hospital in Pune. The doctor opined that there was bleeding. It is then alleged that even thereafter she was subjected to illtreatment. She was abused and the mother in law even assaulted her with chappals.

9. Lastly, it is alleged that on 26.10.2021 her husband dropped her at her parental home at Bhusawal after removing her gold ornaments.

10. Even thereafter the husband while chatting on the WhatsApp started insisting for separation. On 03.12.2021 she was admitted in a hospital at Bhusawal where miscarriage occurred. On 20.12.2021 her husband made a phone call to her on a mobile phone and threatened her of dire consequences and even of uploading whatever recording he had if she would approach the Women's Commission. Ultimately, the F.I.R. was lodged on 17.10.2022 and the offence was registered.

11. The learned advocate for the applicants would submit that though there is a matrimonial discord, attempt has been made to rope in as many relatives of the husband as possible. Even the distant relatives have been roped in inasmuch as the father in law of the married sister in law, her husband, maternal uncle of the husband and the maternal grandfather of the husband have also been roped in to wreak vengeance. There are no sufficient reasons to implicate all of them. The statements of her relatives are also similarly vague and omnibus. It would be abuse of the process of law if all including the distant relatives are made to face the prosecution.

12. The learned A.P.P. and the learned advocate for the respondent no. 2 would strongly oppose the applications. They would submit that under Section 482 of the Code of Criminal Procedure this Court has inherent

limitations in considering the request for quashment of a crime. After thorough investigation a charge-sheet has been filed. The F.I.R. cannot be expected to be an encyclopedia. An opportunity deserves to be extended to the prosecution to substantiate the allegations. This can happen only during trial. There are specific allegations against all the accused persons and the applications be rejected.

13. At the outset, it is necessary to note that bearing in mind the inherent limitations on the powers of this Court under Section 482 of the Code of Criminal Procedure, simultaneously, bearing in mind the fact that the F.I.R. is not supposed to be an encyclopedia, one thing is abundantly clear that there are specific and precise allegations of subjecting the respondent no. 2 to cruelty as against the husband, his mother and his married sister. We are, therefore, not inclined to entertain their request for quashment of the crime.

14. However, so far as the other relatives of the husband are concerned, including the father of the husband, though he might have been cohabiting under the same roof, absence of any specific and precise allegations against him about having taken part in subjecting the respondent no. 2 to cruelty being conspicuous, it would be abuse of the process of law to make the father of the husband face the prosecution. If the respondent no. 2 could make specific allegations against the husband, his mother and his married sister, she would not have hesitated in attributing something to his father as well. But that being not the case, it would be abuse of process of law to make him face the prosecution.

15. So far as the other applicants are concerned, who are husband of the sister in law of the respondent no. 2 her father in law, maternal uncle of the husband and maternal grand father of the husband, again, the F.I.R. and the statements of the witnesses do not attribute any specific and exclusive role to any of them. One cannot make out the reason as to why even these persons can be made to face the prosecution even in the absence of any

allegations and material to reveal their involvement in subjecting the respondent no. 2 to cruelty. As is observed above, all the allegations are attributable to the husband, his mother and his married sister.

16. Interestingly, the maternal side grandfather of the husband has also been roped in even when the only role attributed to him in the F.I.R. and in the statements of the witnesses is when the husband had brought the respondent no. 2 back to the matrimonial home on 18.10.2021 and when the mother in law was not allowing her to enter into the house, it was the maternal side grandfather who was called and he convinced the mother in law, whereupon the respondent no. 2 was allowed to enter into the house.

17. In view of such peculiar state of affairs, where even the distant relatives have been roped in, one is reminded of the observations of the Supreme Court in the matters of :

- 1) **Preeti Gupta and Anr. V/s. State of Jharkhand and Anr.**
[(2010) 7 Supreme Court Cases 667],
- 2) **Geeta Mahrotra & Anr V/s. State of U.P. & Anr.**
[2013 (AIR) (SC) 181],
- 3) **Kahkashan Kausar @ Sonam and others Vs. State of Bihar;**
[(2022) 6 SCC 599]

Besides, the case qua these distant relatives is squarely covered by the observations of the Supreme Court in the matter of **State of Haryana and Ors V/s. Bhajan Lal and Ors.: AIR 1992 Supreme Court, 604**, as well. It would be sheer abuse of process of law to allow these distant relatives to face the prosecution in absence of any specific allegation and material demonstrating any role played by them in subjecting the respondent no. 2 to cruelty.

18. To sum up, though the prosecution can go on to the extent of husband, mother in law and the married sister in law of the respondent no. 2, the rest of the applicants-accused cannot be made to suffer the ordeal.

19. Both the Criminal Applications are allowed partly.
20. Criminal Application No. 1743/2022 is allowed to the extent of applicant nos. 2 to 5 therein and Criminal Application No. 1744/2022 is allowed to the extent of the applicant no. 2.
21. Crime No. 105/2022, registered with Bhusawal Bazarpeth Police Station, Tq. Bhusawal, District Jalgaon, for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code and the charge-sheet No. 55/2022 to the extent of these applicants namely; Iliyas Amin Shaikh, Dr. Amin A. Shaikh, Jameer Ismail Manyar, Ismail Yousuf Manyar (applicants No. 2 to 5 in Criminal Application No. 1743/2022) and Harun s/o Yousuf Attar (applicant no. 2 in Criminal Application No. 1744/2022) is quashed and set aside.
22. The applications to the extent of applicant No. 1 in Criminal Application No. 1743/2022 and applicant nos. 1 and 3 in Criminal Application No. 1744/2022 are rejected.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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