



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1744 OF 2023

1. Santosh S/o. Vishwanath Kakade,
Age : 40 years, Occu. : Sweeper,
R/o. Bhingoli, Tq. Shirur Anantpal,
Dist. Latur.

Presently residing at Bhaindar West,
Uttam Road, Nehru Nagar,
Galli No. 02, Room No. 74,
Bhaindar West, Mumbai (Husband)
2. Vishwanath Sadashiv Kakde,
Age : 80 years, Occ. Agriculture,
R/o Bhingoli, Tq. Shirur Anantpal,
Dist. Latur. (Father-in-law)
3. Sampata W/o Vishwanath Kakade,
Age : 70 years, Occ. Housewife,
R/o Bhingoli, Tq. Shirur Anantpal,
Dist. Latur, (Mother-in-law)
4. Hanuman S/o Vishwanath Kakade,
Age: 20 years, Occ. Student,
R/o Bhingoli, Tq. Shirur Anantpal,
Dist. Latur. (Step brother)
5. Ushabai W/o Chandrakant Suryawanshi,
Age : 51 years, Occ. Housewife,
R/o Malewadi, Tq. Udgir,
Dist. Latur. (Sister-in-law)
6. Chandrakant S/o Shankar Suryawanshi,
Age : 47 years, Occ. Agriculture,
R/o Malewadi, Tq. Udgir,
Dist. Latur. (Husband of sister-in-law)
7. Sangita W/o Somnath Suryawanshi,
Age : 42 years, Occ. Housewife,
R/o Velkar Nagar, Ghodbandar Gaon,
Near Modern Company, Gate No. 2,
Mira-Bhayander, Thane
Maharashtra (Sister-in-law)

8. Somnath S/o Shankar Suryavwanshi,
Age : 45 years, Occ. Driver,
R/o Velkar Nagar, Ghodbandar Gaon,
Near Modern Company, Gate No. 2,
Mira-Bhayander, Thane
Maharashtra (Husband of sister-in-law)

... APPLICANTS

VERSUS

1. The State of Maharashtra,
Through the Police Inspector,
Police Station Bhada,
Tq. Ausa, Dist. Latur.
2. Rajashree W/o. Santosh Kakade,
Age : 32 years, Occu. : Housewife,
R/o. Masurdi, Bhada,
Tq. Ausa, Dist. Latur.

... RESPONDENTS

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Mr. Prasad D. Jarare, Advocate for the Applicants.
Dr. Kalpalata Patil Bharaswadkar. APP for Respondent No.1 – State.
Ms. Priyanka Deshpande, Advocate for Respondent No.2 (**Absent**).
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**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATED : 20th AUGUST, 2024

ORDER (PER ABHAY S. WAGHWASE, J.) :

1. Husband and in-laws of respondent no. 2 have approached this court for exercising powers of this court under section 482 of the Code of Criminal Procedure to quash and set aside the crime bearing No.0038 of 2023 and charge-sheet resulting out of FIR registered at Bhada Police Station, Taluka Ausa, District Latur for offence punishable

under sections 498A, 323, 504, 506 r/w section 34 of Indian Penal Code (IPC).

2. Learned counsel for applicants pointed out that, respondent no.2 and present applicant no.1 got married more than a decade back. That, there was no previous complaint anywhere of any sort. That, admittedly there was matrimonial discord between only respondent no.2 and applicant no.1. However, merely with intention to rope in entire family, even relatives who were residing at distinct and distant places are named with sole intention of harassing. That, there is proof of separate residence. That, even allegations are vague, general and omnibus in nature i.e. without specifying instances of harassment and demand. That, it is clear abuse of process of law. That, FIR is instituted when proceedings before Women Grievances Redressal Cell did not materialize. Hence, according to learned counsel, FIR being motivated one and when there is no evidence or material in support of the allegations, making applicants face trial would put them to hardship and injustice.

3. Learned APP opposed the application on the ground that, there are allegations of demand and on account of non fulfillment, there was cruelty and ill treatment. That, husband beat complainant. In-laws and relatives also participated in instigation and therefore relief is opposed.

4. We have perused the FIR and after disinclination is shown to consider the application as regards to applicant no.1 husband, learned counsel sought permission to withdraw instant proceedings as against applicant no.1 husband. Therefore, FIR is required to be examined only to the extent of remaining applicants.

5. Application shows that, applicant nos.2 and 3 parents of applicant no.1 and in-laws of respondent no.2 are around 80 and 70 years, respectively. Applicant no.4 is step brother and he is a student and resident of Shirur Anantpal, whereas applicant no.5 sister-in-law is a resident of Malewadi. Applicant no.6 is husband of applicant no.5 sister-in-law, whereas applicant no.7 also a sister-in-law, but is residing at Mira-Bhayander and applicant no.8 is her husband and he is also shown to be resident at Mira-Bhayander. Therefore it is evident that, applicant nos.2 and 3 are old aged and rest of the applicants, who are step brother, sister-in-law and their husbands are apparently residents at distinct places. Copies of their Aadhar card are also placed on record.

6. On visiting the FIR, it is noticed that, marriage of respondent no.2 with applicant no.1 has taken place 12 years prior to the FIR. Most of the allegations are against husband. What role rest of the applicants played and when they came together in inflicting cruelty to the

informant is not spelt out in the FIR. What was the manner of ill treatment and cruelty at their hands is also not spelt out.

Consequently, in the considered opinion of this court, when FIR is bereft of specific allegations against in-laws and relatives, making them face trial would obviously exposed them to hardship. With such quality of allegations, which are apparently omnibus and general in nature, making them face trial would also in a way impart injustice on them. Hence, application to their extent deserves to be allowed and we proceed to pass the following order :-

ORDER

(i) The criminal application is partly allowed.

(ii) Criminal application as regards to applicant no.1 husband is dismissed as withdrawn.

iii) The F.I.R. vide Crime bearing No.0038 of 2023, dated 24.02.2023 registered with Bhada Police Station, Taluka Ausa, District Latur for the offence punishable under sections 498A, 323, 504 and 506 r/w section 34 of Indian Penal Code and case bearing R.C.C. No.192 of 2023 pending on the file of learned Judicial Magistrate First Class, Ausa are quashed and set aside to the extent of applicant Nos.2 to 8.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)