



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

CRIMINAL APPLICATION NO. 1838 OF 2023

1. Swapnil Sunil Patwa,
Age : 38 Years, Occu. : Business,
R/o House No. 3292/93,
Khista Galli, Ahmednagar (Husband)
2. Sunil Manikchand Patwa,
Age : 67 Years, Occu. : Business,
R/o House No. 1494, Ramchandra
Khunt, Ahmednagar (Father-in-law)
3. Sadhana Sunil Patwa
Age : 61 Years, Occu. : Household,
R/o As above (Mother-in-law)
4. Darshana Nitesh Vora,
Age : 32 Years, Occu. : Household,
R/o Room No. 315/144, 8th Floor,
Tower-1, Fortune Condo Town,
Nirathiwat Rajankarindra,
24 Alley, Chong Nosi,
Yan Nawa, Bangkok,
Thailand-10120 (Sister-in-law)
5. Nitesh Deepak Vora,
Age : 37 Years, Occu. : Service,
R/o As above (Husband of sister-in-law)
6. Priyanka Nilesh Shah,
Age : 38 Years, Occu. : Household,
R/o Flat No. 11, Building No. 3,
SR No. 580, 581, Raisonni Park,
Opposite Market Yard Bus Stop,
Pune (Sister-in-law)
7. Nilesh Satish Shah,
Age : 42 Years, Occu. : Lawyer,

R/o As above (Husband of sister-in-law)

8. Manisha Hitesh Rachh,
Age : 59 Years, Occu. Household,
R/o C/o Hitesh Rachh, I-3,
MG Road, Ahmednagar (Sister-in-law)
9. Hitesh Rachh,
Age : 63 Years, Occu. : Business,
R/o As above (Husband of sister-in-law) .. Applicants

Versus

1. The State of Maharashtra,
Through Police Station Officer,
CIDCO Police Station, Aurangabad.
2. Poonam Swapnil Patwa,
Age : 32 Years, Occu. : Household,
R/o House No. F-22/14,
Sambhaji Colony, N-6, CIDCO,
Aurangabad. .. Respondents

Shri Satyajit S. Bora, Advocate for the Applicants.

Shri G. O. Wattamwar, A.P.P. for the Respondent No. 1.

Shri A. S. Usmanpurkar, Advocate for the Respondent No. 2.

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

DATE : 10 APRIL 2024.

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

. Heard both the sides finally.

2. When we expressed our disinclination to grant relief to applicant Nos. 1 to 3, learned counsel for the applicants on instructions does not press criminal application to their extent.

Criminal application stands withdrawn to the extent of applicant Nos. 1 to 3. We proceed to consider application of applicant Nos. 4 to 9, who are married sisters-in-law of the respondent No. 2 and their husbands. They are seeking quashment of FIR bearing CR No. 168/2023 registered with CIDCO Police Station, Aurangabad on 27.03.2023 for the offences punishable U/Sec. 323, 498-A, 504, 506 r/w Sec. 34 of the Indian Penal Code (for short "I. P. Code") and consequential charge sheet and proceedings bearing R.C.C. No. 1419 of 2023 pending before the Judicial Magistrate First Class, Aurangabad.

3. The respondent No. 2 lodged report against the applicants that her marriage was solemnized with Swapnil on 01.02.2020, which was inter caste one. She was subjected to illtreatment as she was not belonging to caste of accused persons. On or about 06 May 2021, she was suffering from Corona, her husband and parents-in-law beaten her and insisted for bringing Rs. 5,00,000/- from her parents. She was brought to her parents home. Whenever she requested for cohabitation she was asked to satisfy the demand. Thereafter, there was conciliation between the parties and she came to the matrimonial home. She was again beaten up and abused by the applicants on 23.02.2023.

4. Investigation was conducted and the charge sheet was filed. The proceedings are pending in the Court of Judicial Magistrate First Class, Aurangabad as R.C.C. No. 1419 of 2023.

5. Learned counsel for the applicants submits that no specific

role has been attributed to applicant Nos. 4 to 9. Applicant Nos. 4, 6 and 8 are married sisters residing at different places with their husbands. They did not share common shelter with the informant. The allegations against them are improbable. It is submitted that they are falsely implicated. Applicant No. 7 is a practicing lawyer. He was not present when incident as stated in FIR occurred on 25.02.2023. It is submitted that it would be an abuse of process of law to proceed against the applicants.

6. Learned Assistant Public Prosecutor and the learned counsel for the respondent No. 2 oppose the submissions of the applicants. According to them sufficient material has been collected during the course of investigation to show *prima facie* case against the applicants. Learned counsel for the respondent No. 2 would point out written complaints made by the informant to Women's Grievance Redressal Cell to corroborate incriminating role of the applicants. They would submit that a full-fledged trial is necessary to see the involvement of the applicants.

7. We have considered rival submissions of the parties. There is no dispute about relationship of applicant Nos. 4 to 9 with the informant. FIR and the submissions recorded during the course of investigation indicate specific and incriminating role of the applicant Nos. 1 to 3. But we do not find specific incriminating role of applicant Nos. 4 to 9. Allegations against them are omnibus.

8. Applicant Nos. 4 to 9 are residents of different places. Informant cohabited with applicant No. 1 along with parents-in-law at Ahmednagar. There is no material to show that there was occasion for the applicant Nos. 4 to 9 to come to Ahmednagar and to subject her to illtreatment. It reveals that informant made various complaints to the police before lodging FIR.

9. Offence was registered on 23.02.2023. She filed complaint with Bharosa cell on 04.03.2023 and 29.03.2023. They are not consistent with the first information report. A complaint dated 04.03.2023 would disclose the instances and allegations of harassment, which are absent in the first information report. Another complaint is vague. Impugned FIR appears to be exaggerated one. In view of law laid down by the Supreme Court in the matters of Geeta Malhotra and another Vs. State of U. P. and another, (2012) 10 SCC 741 and Kahkashan Kausar @ Sonam and others Vs. State of Bihar, (2022) 6 SCC 599, we find that it would be an abuse of process of law to proceed against applicant Nos. 4 to 9.

10. Applicant No. 7 is a practicing lawyer. Impugned FIR discloses incident of abuse and assault on the informant on 23.02.2023 at Ahmednagar. We have gone through the roznama of the proceedings of a Co-operative Court No. 1 at Pune. Advocate for the opponent was marked present and appears to have filed counter affidavit. A counter affidavit produced on record shows signature of the applicant No. 7. These documents being court record and of impeccable and sterling quality, *prima*

facie indicate that he was not present at Ahmednagar when alleged incident took place. This shows tendency of the informant to implicate the family members unnecessarily. We are of the considered view that the crime and the complaint are liable to be quashed to the extent of applicant Nos. 4 to 9.

11. In view of the above, we pass following order.

O R D E R

I. The criminal application is partly allowed.

II. Impugned FIR bearing CR No. 168/2023 registered with CIDCO Police Station, Aurangabad on 27.03.2023 for the offences punishable U/Sec. 323, 498-A, 504, 506 r/w Sec. 34 of the Indian Penal Code (for short "I. P. Code") and consequential charge sheet and proceedings bearing R.C.C. No. 1419 of 2023 pending before the Judicial Magistrate First Class, Aurangabad are quashed and set aside to the extent of applicant Nos. 4 to 9.

III. The criminal application is disposed of.

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

bsb / April 24