



Corrected Order
Corrections have been carried out in view of speaking to
minutes order dated 03.04.2024

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1735 OF 2019

1. Jayant Govindrao Ambikar,
Age : 42, Occu. : Nil,
2. Govind S/o Martandrao Ambikar,
Age : 77 Years, Occu. : Nil,
3. Kantabai Govind Ambikar,
Age : 64 Years, Occu. : Household,
4. Jitendra Govind Ambikar,
Age : 40 Years, Occu. : Private Service,
5. Ashwini Jitendra Ambikar,
Age : 35 Years, Occu. : Household,

All R/o EWS-458, Vaishali Nagar,
Supela, Bhillai, Tq. & Dist. Durg,
State Chhatisgad.

.. Applicants

Versus

1. The State of Maharashtra,
Through Police Inspector,
Police Station, Cidco, Aurangabad
City, Tq. & Dist. Aurangabad.
2. Shital w/o Jayant Ambikar,
Age : 35 years, Occu. : Household,
C/o Dilip Kokne, Narendra Housing
Society, Plot No. P.11/8, Ashirwad
Building, N-7, CIDCO,
Aurangabad.

.. Respondents

Shri Sohail Subhedar, Advocate h/f Shri N. S. Ghanekar,

Advocate for the Applicants.

Shri G. A. Kulkarni, A.P.P. for the Respondent No. 1.

Shri V. M. Maney, Advocate for the Respondent No. 2.

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

DATE : 04 MARCH 2024.

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

. Heard both the sides finally with their consent at the admission stage.

2. When we express our disinclination to grant relief to the applicant No. 1-husband of the respondent No. 2, applicant No. 2-father-in-law and applicant No. 3-mother-in-law of the respondent No. 2, the learned counsel for the applicants seeks leave to withdraw the application to their extent. We are therefore considering present criminal application of applicant No. 4-brother-in-law of the respondent No. 2 and applicant No. 5 wife of the applicant No. 4, only.

3. The respondent No. 2 lodged report on 23.03.2019 against all the applicants U/Sec. 498-A, 323, 504 r/w Sec. 34 of the Indian Penal Code and U/Sec. 3 and 4 of the Dowry Prohibition Act. It was investigated and a charge sheet was filed. FIR lodged by the respondent No. 2 and the charge sheet are sought to be quashed by the applicants.

4. It is alleged by the respondent No. 2 that her marriage was solemnized with applicant No. 1-Jayant on 23.02.2008. The

couple resided at various places namely Mumbai, London, Bhilai and Pune. When they were at Bhilai, she was harassed as she could not bear child. She was also illtreated to bring money for purchasing a flat at Pune. It is alleged that applicant No. 1 pawned ornaments of the informant and obtained Rs. 3,00,000/-. The applicant Nos. 4 and 5 are alleged to have abetted applicant No. 1 in causing illtreatment to the informant. The flat which was purchased from the funds of the informant's father was fraudulently returned to the builder by the applicant No. 1 and money was obtained.

5. Learned counsel for the applicants submits that the applicant Nos. 4 and 5 are falsely implicated in the offence due to strained relations between the applicant No. 1 husband and the informant. It is submitted that they are resident of Bhilai, Tq. and Dist. Durg (State of Chhatisgad) and never interfered in the matrimonial life of the couple. He would submit that no case can be made out from the material collected during the investigation.

6. Learned Assistant Public Prosecutor and the learned counsel for the respondent No. 2 vehemently oppose the submissions of the learned counsel for the applicants. According to them applicant Nos. 4 and 5 abetted applicant No. 1, husband and caused illtreatment when informant had been to Bhilai. The statements of the witnesses show incriminating role. They would prayed to reject the application.

7. We have considered submissions of the parties. We have

also gone through the relevant papers of investigation. There is no dispute that the applicant Nos. 4 and 5 are residents of Bhillai. The couple initially resided at Bhillai, then shifted to Mumbai, Pune and again came back to Bhillai. The first information report does not spell out active and specific role of the applicants. On the contrary, specific allegations are levelled against the applicant No. 1-husband and his parents.

8. We have gone through written complaint dated 22.12.2018 submitted by the informant to the police station of Chikalthana. It does not attribute any role to applicant Nos. 4 and 5. There are certain aspersions against them for the period after 09.12.2015. However, the FIR only makes vague allegations of 2012. The FIR appears to be exaggerated one to the extent of these applicants.

9. We have also considered the statements of the witnesses. We do not find any *prima facie* case against the applicant Nos. 4 and 5. We are of the considered view that they have been roped in out of vengeance.

10. Considering the material on record, we are guided by the principles laid down by the Supreme Court in the matter of Geeta Malhotra and another Vs. State of U. P. and another reported in (2012) 10 SCC 741 and Kahkashan Kausar @. Sonam and others Vs. State of Bihar reported in (2022) 6 SCC 599. We find substance in the submissions of the learned counsel for the applicants. For the reasons recorded above, we pass following order.

ORDER

- I. The criminal application is partly allowed.
- II. FIR bearing CR. No. 156/2019 registered with CIDCO Police Station Aurangabad and consequential charge sheet No. 125/2019 are quashed and set aside to the extent of the applicant Nos. 4 and 5.
- III. The criminal application to the extent of applicant Nos. 1 to 3 is disposed of as withdrawn.

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

bsb/March 24