



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 CRIMINAL APPLICATION NO. 1402 OF 2021

1. Sultan S/o Shabbier Sayyed Shaikh,
Age : 29 Years, Occ. Service.
2. Paigambar S/o Shabbir Sayyed Shaikh,
Age : 27 Years, Occ. Education,

Both R/o. Harangul Taluka and District
Latur

3. Shaminabi W/o Fahad Mangrule,
Age : 31 Years, Occ. Household,
R/o. Pinjari Glli, Nideban Ves, Udgir,
Tq. Udgir, District Latur.

..Applicants

VERSUS

1. The State of Maharashtra
2. Yasmin W/o Sadikpasha Shaikh,
Age : 27 Years, Occ. Household,
R/o. Panchincholi Tq. Nilanga,
District Latur

.. Respondents

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Advocate for Applicants : Mr. S.W. Shinde h/f Mr. F. K. Patel

APP for Respondent/State: Mr. G.A. Gaikwad

Advocate for Respondent No.2 : S. B. Choudhari h/f Mr. S. J. Salgars

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**CORAM : SMT. VIBHA KANKANWADI AND
R. W. JOSHI, JJ**

DATED : NOVEMBER, 12, 2024

ORDER:-

1. Present application has been filed invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, initially for quashing of FIR vide C.R. No.

63 of 2021 registered with Nilanga Police Station, Taluka Nilanga, District Latur and later on, by way of amendment for quashing the criminal case i.e. Regular Criminal Case No. 226 of 2021 pending before the learned Judicial Magistrate First Class, Nilanga, District Latur for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2 It is not in dispute that applicant Nos.1 and 2 are the brother-in-law and applicant No.3 is the married sister-in-law of respondent No.2. Respondent No.2 got married to original accused No.1 Sadiq Pasha on 09.03.2014. She started residing with her husband, parents-in-law and present applicant Nos. 1 and 2.

3. Heard learned Advocate for the applicants, learned A.P.P for the respondent No.1/State and learned Advocate for respondent No.2.

4. Perusal of the F.I.R and the contents of the charge sheet would show that, respondent No.2 was treated properly at her matrimonial home for about six months after the marriage and thereafter the husband started saying that he does not like her and her parents have not given good gifts at the time of marriage. He used to assault her, but still she was surviving there. She gave birth to son Adil. She also informed about the

harassment to her parents and brother who had tried to persuade the accused persons. Then she says that, by making demand of Rs. 5,00,000/- for starting a hotel, the accused persons assaulted her in the year 2017 and drove her out of the house. She conveyed the said fact to her parents and brother and after some days her father brought her to the matrimonial home persuaded the accused persons and gave them amount of Rs. 1,00,000/- and left. Then she says that after few days, the accused persons started demanding the remaining amount of Rs. 4,00,000/- and harassing her by assaulting and abusing and asking her to go to her parental home. Then she was driven out of the house once again. She came to her parents house along with her son. She then says that on 29.11.2020 all the accused went to her parental home, made demand of the amount and they gave option that if she is unable to give the amount, then she should give divorce. The act of pursuation did not yield any possible result, even at that time she was assaulted and they were separated by uncle of the informant. She then went to Woman Redressal Forum Latur. Even before the said Redressal Forum, the accused persons told that they will not allow her to cohabit unless she bring money and therefore, the FIR has been lodged.

5. The statement of the witnesses who are mainly the parents and uncle of respondent No.2, as well as the neighbours or citizens of the village of her father, would show that those are stereo-type.

6. As regards the allegations against present applicant No.3 are concerned, applicant No.3 is a married sister-in-law, who resides at different place along with her family. No specific role is attributed and it is also not stated as to why by leaving her matrimonial home, she should come to her parental home just to harass the informant. Another fact to be noted is that if the informant was driven out of the house in the year 2017 and even for few days thereafter, she had resided with the husband and then again driven out, she has not given the approximate date or month and year when she was driven out of the house, but it cannot go beyond 2017 or early 2018. The present FIR has been lodged on 02.03.2021 with Nilanga Police Station and it appears that the incident dated 29.11.2020 has been quoted to bring the action within limitation. If that incident had taken place on 29.11.2020, then why immediate action was not taken, would be a question. She had approached the Woman Redressal Forum on 30.11.2020 and then ultimately lodged the FIR on 02.03.2021. Therefore, there is sufficient

room to believe that the present applicants have been roped in being a member of family of the husband with ulterior motive and therefore, this is a fit case where we should exercise our inherent powers under Section 482 of the Code of Criminal Procedure for quashing the FIR and entire proceeding. Hence, we proceed to pass following order

ORDER

- (I) The application stands allowed.
- (II) The FIR vide C.R. No. 63 of 2021 registered with Nilanga Police Station, Taluka Nilaga, District Latur and the entire proceeding i.e. RCC No. 226 of 2021 pending before the learned Judicial Magistrate, Nilanga District Latur for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code stand quashed and set aside as against applicant No.1 Sultan S/o Shabbier Sayyed Shaikh, applicant No.2 Paigambar S/o Shabbir Sayyed Shaikh and applicant No.3 Shaminabi W/o Fahad Mangrule.
- (III) It is clarified that the matter may proceed as against other accused.

(R.W. JOSHI)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE