



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2048 OF 2023

1] Sandesh S/o Gopalkrushna Gurav
(Withdrawn)

2] Gopalkrushna S/o. Dattatraya Gurav
3] Suman W/o Gopalkrushna Gurav
4] Hrushikesh W/o Gopalkrushna Gurav

.. Applicants

Versus

1] The State of Maharashtra,
Through Police Inspector,
Akole Police Station,
Tq. Akole, Dist. Ahmednagar

2] Shital W/o Sandesh Gurav

.. Respondents

...
Advocate for applicants : M. Satyajeet S. Dixit
APP for the respondent – State : Mr. V.K. Kotecha
Advocate for respondent no.2 : Ms. A.S. Jadhav (Appointed)
...

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

DATE : 5 MARCH 2024

ORDER (MANGESH S. PATIL, J.) :

This is an application under section 482 of the Code of Criminal Procedure for quashment of crime no. 0120/2023 registered with Akole Police Station, Akole, Tq. Akole, District – Ahmednagar for the offences punishable under section 498-A, 323, 504, 506 r/w. 34 of the Indian Penal Code, consequent chargesheet no. 61/2023 and Regular Criminal Case No. 81 of 2023 pending before the Judicial Magistrate First Class, Akole, District – Ahmednagar.

2. We have heard both the sides.

3. The respondent no. 2 is the wife of the applicant no.1. She lodged the FIR on 28-02-2023 inter alia alleging that her marriage was solemnized on 15-02-2021. After marriage, she started cohabiting with the applicants in the matrimonial home. She was maintained properly for 4-5 days. Thereafter, her husband and mother in law started quarreling with her stating that the marriage was not performed up to the status. She was being taunted for not being able to perform domestic chores and was unable to cook.

4. On 05-03-2021, the applicants raised a demand for an amount of Rs.10,00,000/- and declared that they would allow her to cohabit only if money was paid. When she expressed that she was unable to pay because of the financial condition of her father, she was driven out. Somehow, she could come back to the matrimonial home but again she was subjected to cruelty and on 08-03-2021, she was driven out after the assault.

5. Supplementary statement of the respondent no. 2 was also recorded on the next day i.e. 29-02-2023 wherein she changed the version and stated that she was driven out on 10-03-2021 and not 08-03-2021.

6. The applicant no. 2 is the father in law. Applicant no.3 is the mother in law and applicant no. 4 is the brother in law of the respondent no. 2.

7. As can be seen from the FIR, the respondent no. 2 could lead matrimonial life and could cohabit with the applicants barely for 22/23 days. In view of such a short duration of marital life led by her, though there could be obviously some reason, one will have to be circumspect though not cynical, in appreciating the facts and circumstances particularly the allegations being levelled by the respondent no. 2 against applicant nos 2 to 4.

8. The FIR, the supplementary statement and the statements of the witnesses in the form of parents and brother of the respondent no. 2 are uniform. They have not been able to precisely attribute specific and exclusive role to the applicant nos. 2 to 4. The allegations primarily are against the husband and rest of the applicants have been collectively named with the applicant no. 1 – husband in respect of all the allegations.

9. In our considered view, considering the short duration of barely 22/23 days which the respondent no. 2 spent in the matrimonial home, still, if the respondent no. 2 has been unable to attribute specific and exclusive role to the applicants no. 2 to 4, it would be a matter squarely covered by the observations in the matter of **Kahkashan**

Kausar V. State of Bihar; (2022) 6 SCC 599. It would be an abuse of the process of law to allow the prosecution to go on as against the applicants no. 2 to 4 which, in all probability, would be an exercise in futility.

10. The application is partly allowed.

11. Application to the extent of applicant no. 1 has been already withdrawn.

12. Application to the extent of applicants no. 2 to 4 is allowed.

13. Crime no. 0120/2023 registered with Akole Police Station, Akole, Tq. Akole, District – Ahmednagar for the offences punishable under section 498-A, 323, 504, 506 r/w. 34 of the Indian Penal Code, consequent chargesheet no. 61/2023 and Regular Criminal Case No. 81 of 2023 pending before the Judicial Magistrate First Class, Akole, District – Ahmednagar are quashed and set aside to the extent of applicants no. 2 to 4.

14. We quantify the fees of the learned advocate whom we have appointed to represent the respondent no. 2, at Rs.3000/-.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/