



(This order is corrected vide speaking to the minutes of order dated 18.12.2024)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

943 CRIMINAL APPLICATION NO.2492 OF 2024

1. Pramod s/o Balasaheb Gahire
2. Chhayabai w/o Balasaheb Gahire
3. Sangitabai w/o Magan Ahire
4. Dattu Popat Lakare
5. Sunil Lakuram Kundhare
6. Suresh Kamalsingh Dhimber
7. Rakesh s/o Balasaheb Gahire
8. Meenabai Shantilal Mundhare

.. Applicants

Versus

1. The State of Maharashtra
Through Police Station, Paithan,
Tq. Paithan, District :- Chhatrapati
Sambhajinagar (Aurangabad).
2. Deepali Pramod Gahire

.. Respondents

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Mr. A. A. Pawar, Advocate for Applicants.
Mrs. P. R. Bharaswadkar, APP for Respondent No.1/State.
Mr. D. S. Ingole, Advocate for Respondent No.2 (Appointed).

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

DATE : 21 NOVEMBER 2024

ORDER :

. Present application has been filed for quashing the FIR bearing Crime No.204 of 2024 dated 20.05.2024 registered with Paithan Police Station, Taluka Paithan, District Chhatrapati Sambhajinagar for the offences punishable under Sections 323,

498-A, 504 and 506 of Indian Penal Code.

2. Heard learned Advocate for the applicants and learned APP for respondent No.1/State.

3. When the matter was on board on 25.07.2024, respondent No.2 was present before the Court and upon her request for legal aid, this Court had appointed learned Advocate Mr. D. S. Ingole to represent her cause. We have heard him.

4. As aforesaid, the FIR came to be lodged on 20.05.2024 wherein the husband and all his relatives have been made accused. The informant says that she got married to applicant No.1 on 06.07.2021. It appears that till the birth of the daughter on 06.08.2022, everything was smooth. She says that after the daughter was born, the husband under the influence of liquor used to abuse her and her mother-in-law and cousin mother-in-law were abusing and assaulting her, as she had given birth to daughter. She then says that thereafter the husband started demanding amount of Rs.50,000/- for his vegetable business. He gave threat that she should go to her parents home, if she is unable to fulfill the demand. When she had tried to convey that her father is poor and unable to given the amount, then she says

that the other accused, who are the relatives of the husband residing at different place, used to come to house and abuse her, demand her amount and used to say that she should work. Even threats to kill are alleged to have been given. When the other accused persons are residing separately, the question arises as to why only for this purpose they would come to her matrimonial home.

5. The most important point to be noted is that the husband had filed Hindu Marriage Petition No.17 of 2023 before the learned Civil Judge Senior Division, Kopergaon, District Ahmednagar on 31.01.2023 for divorce. Copy of the judgment delivered on 01.04.2024 is produced, which states that respondent No.2 was duly served, however, remained absent and, therefore, matter had proceeded *ex parte*. It is then held on the basis of evidence that respondent No.2 had treated applicant No.1 herein with cruelty and, therefore, the decree of divorce has been passed. On the last occasion, learned Advocate representing the cause of respondent No.2 was directed to take instructions as to whether respondent No.2 has filed any appeal or application with the same Court for setting aside *ex parte* decree. Learned Advocate submits that he had tried to contact respondent No.2

thrice, but she has not responded. Thus, it can be therefore said that when respondent No.2 had knowledge about filing of the divorce petition, still had not taken appropriate steps and even after the decree was passed, has filed the present FIR then there is room to believe that it is with ulterior motive and, therefore, the present case is within the parameters laid down in ***State of Haryana and others Vs. Ch. Bhajanlal and others, [AIR 1992 SC 604]***.

The application therefore deserves to be allowed. Hence, following order :-

ORDER

- I) Criminal Application stands allowed.
- II) The FIR bearing Crime No.204 of 2024 dated 20.05.2024 registered with Paithan Police Station, Taluka Paithan, District Chhatrapati Sambhajanagar for the offences punishable under Sections 323, 498-A, 504 and 506 of Indian Penal Code, stands quashed and set aside as against the applicants i.e. (i) Pramod s/o Balasaheb Gahire, (ii) Chhayabai w/o Balasaheb Gahire, (iii) Sangitabai w/o Magan Ahire, (iv) Dattu Popat Lakare, (v) Sunil Lakuram Kundhare, (vi) Suresh Kamalsingh Dhimber, (vii) Rakesh s/o Balasaheb Gahire, (viii) Meenabai Shantilal Mundhare.
- III) Fees of learned Advocate appointed for respondent No.2 is quantified at Rs.5,000/- to be paid by High Court Legal Services Sub Committee, Aurangabad.

[R. W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE