



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2042 OF 2019

- 1) Alikhan Karimkhan Pathan,
Age-36 years, Occu:Labour,
- 2) Rajiyabee W/o Karimkhan Pathan,
Age-66 years, Occu:Household,
(Application stand abated in respect
of applicant No.2 vide order dated
18/01/2021, as she died)
- 3) Taslimkhan S/o- Karimkhan Pathan,
Age-46 years, Occu:Business,
- 4) Tabassum W/o Taslimkhan Pathan,
Age-38 years, Occu:Household,
- 5) Tazimkhan S/o Karimkhan Pathan,
Age-38 years, Occu:Advocate,
- 6) Tarannum W/o Tazimkhan Pathan,
Age-33 years, Occu:Household,

All R/o- Garib Nawaj Nagar, Dhule,
Taluka and District-Dhule,

- 7) Raees Ali Mukaddar Ali,
Age-52 years, Occu:Labour,
R/o-Iqbal Chowk, Shahada,
Taluka-Shahada, District-Nandurbar.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Shahada Police Station,
District-Dhule,

- 2) Sau Najima W/o Alikhan Pathan,
Age-32 years, Occu:Household,
R/o-Garib Nawaj Colony,
Near Abubakar Masjid, Shahada,
Taluka-Shahada, District-Nandurbar.

...RESPONDENTS

...
Ms. Rashmi S. Kulkarni Advocate h/f. Mr. V.P. Raje
Advocate for Applicant Nos.1, 3 to 7.
Application stand abated in respect of applicant No.2
vide order dated 18/01/2021, as she died.
Mr. N.R. Dayama, A.P.P. for Respondent No.1.
Mr. D.M. Pingale Advocate for Respondent No.2.

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**CORAM: SMT. VIBHA KANKANWADI AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 23rd SEPTEMBER, 2024

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present application has been filed, initially for quashment of the First Information Report (for short "the FIR") vide Crime No.22 of 2019 registered at Shahada Police Station, District-Nandurbar and by way of amendment for quashing the entire proceedings in R.C.C. No.29 of 2020 pending before the learned Judicial Magistrate First Class, Shahada, District-Nandurbar for the offence punishable under Sections 498-A, 323, 504, 506, 108 read with Section 34 of the Indian Penal Code.
2. It will not be out of place to mention here at the beginning

itself that after hearing, when disinclination is shown to go grant any relief to applicant No.1 who is the husband of respondent No.2, learned Advocate appearing for the applicants, on instructions, seeks withdrawal of the application as against applicant No.1. Accordingly, application stands dismissed as withdrawn as against applicant No.1. During the pendency of the application, applicant No.2 was reported to be dead and therefore, her name came to be deleted, by order dated 18th January 2021.

3. The matter proceeded for the reliefs claimed by applicant Nos.3 to 7. Applicant No.3 is brother-in-law, applicant No.4 is wife of applicant No.3. Applicant No.5 is brother-in-law and applicant No.6 is wife of applicant No.5. Applicant No.7 is stated to be in fact related to the informant and not the husband.

4. Heard learned Advocate Ms. Kulkarni holding for learned Advocate Mr. Raje for the applicants, learned APP Mr. Dayama, for respondent No.1 and learned Advocate Mr. Pingale for respondent No.2. In order to cut short, it can be said that all the learned Advocates have argued in support of their respective contentions.

5. Perusal of the FIR would show that respondent No.7 has

been stated to be the husband of the maternal aunt of respondent No.2-informant. Under such circumstance, respondent No.7 cannot be said to be the relative of the husband and therefore, offence under Section 498-A of the Indian Penal Code is absolutely not attracted as against him. Therefore, as against applicant No.7, the application deserves to be allowed.

6. As against the other applicants are concerned, i.e. two brother-in-laws of respondent No.2 and two sister-in-laws (wives of respective brother-in-laws), except the fact that they were residing together in the matrimonial home, there appears to be nothing against them. There are omnibus allegations. The main allegations are against the husband and the mother-in-law i.e. applicant Nos.1 and 2. It appears that some criminal proceedings were filed by the informant as per her contention in the FIR, with Shahada Police Station vide Crime No.219 of 2015. However, perusal of the said FIR would show that it is totally in respect of some other incident. She says that amount of Rs.2,00,000/- was demanded for starting workshop, but then at the same time she says that all the accused persons started ill-treatment on trifle domestic ground. If it is trifle, then it cannot take serious turn of cruelty. No specific role has been attributed as against applicant Nos. 3 to 6. The statements of the witnesses are also on the

same lines and those statements are mainly of the relatives of respondent No.2 and therefore, this is a fit case to grant relief as against other applicants also i.e. applicant Nos.3 to 6. Therefore, the Application deserves to be partly allowed. Hence the following order:-

ORDER

(I) The Application stands partly allowed.

(II) The application stands dismissed as withdrawn as against applicant No.1 – Alikhan Karimkhan Pathan.

(III) Applicant stands allowed in respect of applicant Nos. 3 to 7.

(IV) The proceedings in R.C.C. No.29 of 2020 pending before the learned Judicial Magistrate First Class, Shahada, District-Nandurbar arising out of the First Information Report vide Crime No.22 of 2019 registered at Shahada Police Station, District-Nandurbar for the offence punishable under Sections 498-A, 323, 504, 506, 108 read with Section 34 of the Indian Penal Code, stands quashed and set aside as against applicant Nos. 3 to 7 i.e. - No.3 - Taslimkhan

S/o- Karimkhan Pathan, No.4 - Tabassum W/o
Taslimkhan Pathan, No.5 - Tazimkhan S/o Karimkhan
Pathan, No.6 - Tarannum W/o Tazimkhan Pathan and
No.7 - Raees Ali Mukaddar Ali.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/SEP24