



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1718 OF 2021

- 1) Shoeb Mohammed Khan S/o
Vali Mohammed Khan,
Age-33 years, Occu:Service,
R/o-New Aqsa Masjid, Shahren Shah
Nagar, Beed, Tq. and Dist-Beed.
**(As per order dated 18th August 2021
Application of applicant No.1 came to
be dismissed as withdrawn),**
- 2) Dilshad Bi W/o Vali Mohammed Khan,
Age-61 years, Occu:nil,
R/o-New Aqsa Masjid, Shahren Shah
Nagar, Beed, Tq. and Dist-Beed,
- 3) Ameer S/o Vali Mohammed Khan,
Age-42 years, Occu:Service,
R/o-Kazi Nagar, Balepir, Beed,
Tq. and Dist-Beed.
- 4) Malik Mohammed Khan
S/o Vali Mohammed Khan,
Age-30 years, Occu:Business,
R/o-New Aqsa Masjid, Shahren Shah
Nagar, Beed, Tq. and Dist-Beed,
- 5) Naziya W/o Feroz Shaikh,
Age-36 years, Occu:Housewife,
R/o-Kazi Nagar, Balepir, Beed,
Tq. and Dist-Beed,
- 6) Shamim Bano W/o Kadir Shaikh,
Age-39 years, Occu:Housewife,
R/o-Nurani Colony, Tq-Jamkhed,
Dist-Ahmednagar,

- 7) Shabana Afreen W/o Junaid Shaikh,
Age-26 years, Occu:Housewife,
R/o-Near Amer Kirana, New Shahren
Shah Nagar, Beed,
Tq. and Dist-Beed.
- 8) Yasmin W/o Zaker Mohammed,
Age-32 years, Occu:Housewife,
R/o-Sahara Colony, Beed,
Tq. and Dist-Beed,
- 9) Mohammed Zakir S/o Mohammed Taher,
Age-35 years,
R/o-Sahara Colony, Beed,
Tq. and Dist-Beed,
- 10) Shaikh Feroz S/o Shaikh Jafar,
Age-40 years, Occu:Business,
R/o-Kazi Nagar, Balepir, Beed,
Tq. and Dist-Beed.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Police Inspector,
Beed City Police Station, Beed,
- 2) Sana W/o Shoeb Khan,
Age-24 years,
R/o-Ghat Nandur, Tq-Kej,
Dist-Beed.

...RESPONDENTS

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Mr. Mohammed Aseem Advocate h/f. Mr. Sayyed Tauseef
Yaseen Advocate for Applicant Nos.2 to 10.
As per order dated 18th August 2021 Application of applicant
No.1 came to be dismissed as withdrawn.
Mr. A.R. Kale, A.P.P. for Respondent No.1 – State.
Mr. Joslyn A. Menzes Advocate for Respondent No.2.

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

DATE OF RESERVING ORDER : 13th NOVEMBER 2024

DATE OF PRONOUNCING ORDER : 6th DECEMBER 2024

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

1. Present Application has been filed for quashing the First Information Report (for short "the FIR") vide Crime No.95 of 2021 registered with Beed City Police Station, Beed on 23rd May 2021 and thereafter by way of amendment, for quashing the charge-sheet arising out of that, pending before the learned Judicial Magistrate First Class, Beed, for the offence punishable under Sections 498-A, 377, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2. It will not be out of place to mention at the beginning itself that when this Court was not inclined to grant any relief to applicant No.1 – husband, learned Advocate for the applicants sought withdrawal of the application as against applicant No.1 and therefore, by order dated 18th August 2021 the application as against applicant No.1 – Shoeb Mohammed Khan S/o Vali

Mohammed Khan came to be dismissed as withdrawn. Further as regards applicant No.2 – mother-in-law is concerned, learned Advocate for the applicants has made a statement that during the pendency of this Application, applicant No.2 has expired. Under such circumstance the case has abated as against applicant No.2.

3. The matter proceeded for the reliefs claimed by applicant Nos. 3 to 10.

4. Heard learned Advocate Mr. Mohammed Aseem holding for learned Advocate Mr. Sayyed Tauseef Yaseen for applicants, learned APP Mr. A.R. Kale for respondent No.1 – State and learned Advocate Mr. Joslyn A. Menzes for respondent No.2. In order to cut short, it can be stated that the learned Advocates for respective parties have argued in support of their contentions.

5. As aforesaid, the Application stood dismissed as withdrawn as against applicant No.1 and the case is abated against applicant No.2, we are not considering the allegations and the evidence collected against them. We are only considering the

allegations and evidence as stated to be against the present applicant Nos. 3 to 10. Applicant Nos.3 and 4 are the brothers-in-law and applicant Nos. 5 to 8 are the sisters-in-law of respondent No.2. Applicant Nos. 9 and 10 are the husbands of applicant Nos.8 and 5, respectively. Admittedly, applicant Nos. 5 and 10 are residing at different place i.e. in the house of applicant No.10 and applicant Nos. 8 and 9 are also residing at a different place i.e. in the house of applicant No.9, though in the same city. Applicant No.6 is residing at Jamkhed, District-Ahmednagar and applicant Nos.4 and 7 were residing in the matrimonial home of respondent No.2.

6. As regards the allegations against applicant Nos.3, 4, 6 and 7, are concerned, respondent No.2 has stated that on one day she had quarrel with applicant No.6 on domestic reason and at that time her husband i.e. applicant No.1 had assaulted her resulting in fracture to her leg. Dispute on account of domestic reason cannot be a ground of cruelty. As regards applicant Nos.3, 4, 9 and 10 are concerned, absolutely there are no overt acts. Even so far as married sisters-in-law are concerned, respondent No.2 says that whenever they used to come to her matrimonial home, they used to say that informant is unable to

prepare good food and whenever they comes she makes the vegetables spicy, without putting salt. These are in fact very trifling issues, daily wear and tear in marital life, which cannot be considered as cruelty as defined under Section 498-A of the Indian Penal Code. At the end, then she made general allegations and even by exaggerating she says that on 15th November 2019 around 11.00 p.m. when refused to have unnatural sex with husband, he told the said fact to all the other accused persons on the next day and then they had abused and assaulted her and then tried to burn her alive. Important point to be noted is that she says that she was admitted in the hospital on 16th November 2019 by her maternal uncle, but there appears to be no attempt to lodge the report alleging that these persons have tried to commit murder of the informant. In the police papers, we could see the discharge card, wherein it is stated that she was admitted in the hospital on 16th November 2019 and discharged on 19th November 2019. The history has been taken as assault with injuries and there is also a note that the patient was advised C.T. Brain but patient was not willing for further investigation. That means, the informant herself has not disclosed the real incident even to the doctor, but now wants to take advantage. Present FIR has been lodged on 23rd May 2021.

Therefore, it can be seen that with some *mala fides* entire family has been roped in and therefore, this is a fit case where we should exercise our inherent powers to quash and set aside the FIR and the proceedings against applicant Nos. 3 to 10. Hence, we pass following order:-

ORDER

(I) The Application stands partly allowed.

(II) The Application as against applicant No.2 - Dilshad Bi W/o Vali Mohammed Khan stands disposed of as abated.

(III) The Application as against applicant Nos. 3 to 10 stands allowed.

(IV) The proceedings of the charge-sheet pending before the learned Judicial Magistrate First Class, Beed, arising out of First Information Report vide Crime No.95 of 2021 registered with Beed City Police Station, Beed on 23rd May 2021, for the offence punishable under Sections 498-A, 377, 323, 504, 506 read with Section 34 of the Indian Penal Code, stands quashed and set aside as against applicant Nos.3 to 10 i.e. 3) Ameer S/o Vali Mohammed Khan, 4) Malik Mohammed Khan 5) Naziya W/o Feroz Shaikh, 6) Shamim Bano W/o

Kadir Shaikh, 7) Shabana Afreen W/o Junaid Shaikh, 8) Yasmin W/o Zaker Mohammed, 9) Mohammed Zakir S/o Mohammed Taher and 10) Shaikh Feroz S/o Shaikh Jafar.

[R.W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/DEC24