



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2465 OF 2023

1. Laxmi W/o. Baburao Sarwade
2. Baburao S/o. Haribhau Sarwade
3. Ravi S/o. Baburao Sarwade
4. Priya W/o. Ravi Sarwade
5. Sunanda W/o. Balaji Wagalgave
6. Balaji S/o. Digambarrao Wagalgave
7. Sharda W/o. Sanjay Gawali
8. Sanjay S/o. Vyankuram Gawali
9. Usha W/o. Nitin Holkar
10. Shivaji S/o. Baburao SarwadeApplicants

Versus

1. The State of Maharashtra
2. Ratnamala W/o. Shivaji SarwadeRespondents

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Advocate for Applicants : Mr. Nitin N. Jagdale
APP for Respondent No. 1 : Mr. K.N. Lokhande
Advocate for Respondent No. 2 : Mr. V.D. Gunale

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

DATE : 22 FEBRUARY 2024

FINAL ORDER (PER : SHAILESH P. BRAHME, J.) :

1. Heard both the sides finally at the admission stage.
2. Applicants are seeking quashment of First Information Report bearing C.R. No. 0158 of 2023 registered with Latur Rural Police Station, Latur, and consequential RCC No. 1148 of 2023 pending before the learned 5th Judicial Magistrate First Class, Latur. Respondent no. 2 is wife of applicant no. 10, who is an informant of the offence in question punishable under Sections 498 – A, 323, 504, 506 read with Section 34 of the Indian Penal Code.
3. After we expressed our disinclination to grant any relief to applicant nos. 1, 2 and 10, learned counsel for the applicants, on instructions, seeks withdrawal of application to their extent. Application to the extent of applicant nos. 1, 2 and 10 is disposed of as withdrawn.
4. Applicant nos. 1 and 2 are parents-in-law and Applicant nos. 5, 7 and 9 are sisters-in-law of respondent no.2. Applicant nos. 6 and 8 are husbands of the sisters-in-law. Applicant no. 3 is brother-in-law of respondent no. 2 and applicant no. 4 is his wife. Applicant no. 10 is married to respondent no. 2 on 21.03.2003 and they have three sons born out of the said wedlock.

5. It is alleged by respondent no. 2 in the FIR that her husband applicant no. 10 was addicted to liquor and he used to abuse and beat her. He used to suspect her fidelity. She was subjected to cruelty for bringing Rs. 2 Lakhs for construction of house. Applicants were not sharing house with informant but used to come and instigate husband of respondent no. 2 to raise the demands. She was driven out from the matrimonial home by causing assault for not satisfying the demand for money.

6. The FIR was filed on 21.06.2023. Investigation was conducted and charge-sheet was filed on 19.07.2023 which culminated in RCC No. 1148 of 2023, pending before the learned 5th Judicial Magistrate First Class, Latur.

7. Learned counsel for applicants submits that applicant nos. 3 and 4 are residents of Pune, remaining applicant nos. 5 to 9 are also residents of different places and had no occasion to interact with the informant so that they could have caused any ill-treatment. He would submit that the allegations are omnibus and extremely vague. FIR under challenge is a counter blast to an FIR lodged by applicant no. 10 – husband, bearing C.R. No. 316 of 2023 of Ahmedpur Police Station on 17.05.2023 for offence under Sections 143, 147, 148, 149, 323, 326, 452,

504, 506 of IPC. It is the case of the applicants that they are falsely implicated in the offence to wreck vengeance and the allegations are inherently improbable.

8. Learned APP and learned counsel for respondent no. 2 support impugned FIR and consequential proceedings. They would submit that FIR and the statements recorded during the course of investigation make out, *prima facie*, case against the applicants. Involvement of the applicants and their role can be appreciated during the course of trial. Informant was required to register non-cognizable offence against applicant no. 10.

9. We have considered rival submissions of the parties. We have gone through papers of the investigation. We are considering present application to the extent of applicant nos. 3 to 9 only. The marriage of the informant with applicant no. 10 was solemnized on 21.03.2003. After about 18 years, informant appears to have approached police against ill-treatment caused by the applicants. The material on record discloses involvement of applicant nos. 1, 2 and 10.

10. It reveals from record that applicant nos. 3 and 4 are residents of Pune. Applicant nos. 5, 7 and 9 are married sisters. They are residents of Latur, albeit, separately with their husbands. FIR does not

spell out specific incriminating role against them. Allegations against them are vague.

11. We have perused statements of Ratnamala, Waman, Shivkant, Vijay and Tanaji. They are not eye witnesses. They also do not attribute any specific role to the applicants, independently.

12. It is evident from record that husband has also filed FIR bearing C.R. No. 316 of 2023 on 17.05.2023 against the relatives of respondent no. 2. He appears to have sustained injuries in the assault. Informant has also registered non-cognizable offence case against applicant no. 10 on 08.10.2022. The relations between applicant no. 10 and respondent no. 2 are strained. Possibility of implicating applicant nos. 3 to 9 to wreck vengeance cannot be ruled out.

13. We are of the considered view that applicant nos. 3 to 9 are implicated in the offence in question by respondent no. 2 but without enough material against them. By relying on the principles laid down by the Supreme Court in the matter of *Geeta Mehrotra and others Versus State of Uttar Pradesh and others*, **(2012) 10 SCC 741**, we have no hesitation to allow the application to the extent of applicant nos. 3 to 9. Applicant nos. 3 to 9 have made out a case for quashing. We, therefore, pass following order :

ORDER

- i. Criminal application is allowed to the extent of applicant nos. 3 to 9.
- ii. FIR bearing CR No. 0158 of 2023 of Latur Rural Police Station, Latur, and RCC No. 1148 of 2023 pending before the learned 5th Judicial Magistrate First Class, Latur, are quashed and set aside to the extent of applicant nos. 3 to 9.
- iii. Criminal Application stands disposed of.

[SHAILESH P. BRAHME, J.]**[MANGESH S. PATIL, J.]**