



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2493 OF 2023

1. Pramod s/o Purushottam Komalwar (Husband),
Age: 34 years, Occ: Service,
R/o: Mul, Tehsil Mul, Dist. Chandrapur.
2. Purusbhottam s/o Vitthal Komalwar (Father-in-Law),
Age: 63 years, Occ: Retired,
R/o: Mul, Tehsil Mul, Dist. Chandrapur.
3. Pushpa w/o Purushottam Komalwar (Mother-in-Law),
Age: 53 years, Occ: Household,
R/o: Mul, Tehsil Mul, Dist. Chandrapur.
4. Hemant s/o Purushottam Komalwar (Brother-in-Law),
Age: 31 years, Occ: Education,
R/o: Mul, Tehsil Mul, Dist. Chandrapur.
5. Trupti d/o Purushottam Komalwar (Sister in Law),
Age: 24 years, Occ: Education,
R/o: Gurukrupa Hostel, Shakkardara square,
Nagpur.
6. Ramesh s/o Nagannaji Komalwar (Cousin of Father in law),
Age: 59 years, Occ: Retired,
R/o: Near Ramkrishna Mandir,
Durgapur Road, Chandrapur.
7. Vijay s/o Vinayak Komalwar (cousin brother-in-law),
Age : 44 years, Occ: Service,
R/o : Behind Zade Hospital,
Dhanora Road, Gadchiroli.
8. Dilip s/o Marotrao Myakalwar (cousin brother-in-law),
Age: 55 years, Occ: Service,
R/o: Pumbhurna, Tehsil Pumbhurna,
Dist. Chandrapur.
9. Sunita w/o Dilip Myakalwar
Age : 53 years, Occ: Politician and Household,
R/o: Pumbhurna, Tehsil Pumbhurna,
Dist. Chandrapur.

... Applicants.

Versus

1. The State of Maharashtra
(Through Islapur Police Station
District Nanded)
2. Rameshwari w/o Pramod Komalwar,
Age: 34 years, Occ : Service,
R/o : Tadala Road, Near Bharat Rice mills,
Tehsil Mul, District Chandrapur,
At present resident of Somesh Colony,
Vazirabad, Nanded. **... Respondents**

...

Mr. Sanjiv Deshpande h/f. Mr. Chetan B. Chaudhari, Advocate for
Applicants.
Ms. Priya R. Bharaswadkar, APP for Respondent - State
Mr. Ashutosh S. Kulkarni, Advocate for Respondent No.2.

...

**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATED : 6th AUGUST, 2024

ORDER (PER ABHAY S. WAGHWASE, J.) :

1. In the instant application, there are prayers for quashing FIR and consequential charge-sheet arising out of complaint lodged by respondent no.2 i.e. for commission of offence under sections 323, 498-A, 504 and 506 r/w 34 of Indian Penal Code (IPC).

2. In support of above relief, alleging false implication, learned counsel for applicants took this court through the FIR bearing No.058 of 2023 lodged at Islapur Police Station, Dist.

Nanded on 21.05.2023 and submitted that, there is apparently false implication. That, entire family has been tried to be roped in. That, marriage of informant and applicant no.1 is of 2016. That, false and baseless allegations are raised for the first time in 2023. That, allegations are general, omnibus and vague in nature that too regarding picking up quarrels and beating her on petty counts, keeping her starved, but according to learned counsel, specific instances are not quoted. That, simplicitor words are used about physical and mental cruelty, but roles are not defined. It is pointed out that, there are allegations that because of ill treatment, she left the company of applicants on 21.06.2020, but there is documentary evidence that applicant no.1 sought travel pass from Collectorate Chandrapur and personally dropped her to Nanded to attend work. Consequently, learned counsel submitted that, there is apparently false implication and there was no demand or any maltreatment as alleged. For all above reasons, learned counsel prays to grant relief as prayed.

3. Above application is opposed by learned counsel appearing for complainant - respondent no.2 as well as learned APP on the ground that, there are clear and categorical allegations of harassment, ill treatment and demand. There was both mental as well as physical cruelty. That, there are statements of witnesses in that regard, and therefore, relief prayed is sought to be refused.

4. After disinclination was shown to consider relief as regards to applicant nos.1 to 3, learned counsel for applicants seeks withdrawal of application to the extent of such applicants.

5. Perused the FIR. Present applicant nos.4 to 9 seem to be brother-in-law, sister-in-law, cousin of father-in-law and cousin brothers-in-law, respectively. FIR shows that, marriage of respondent no.2 was performed to present applicant no.1 on 13.07.2016. She has alleged that, upto two and half years after marriage, she was treated well and so also delivered a boy. Thereafter, she has alleged addiction of liquor by husband, picking up quarrels and beating to her. Then, she has alleged accused parents-in-laws, brother-in-law and sister-in-law picking up quarrels on petty counts. She has attributed demand of money to husband for purchasing a car and instances of being slapped on 21.04.2020. She claims that, on 21.06.2020 she took the son and went back to her parents house at Kinwat. Thereafter, she has alleged demand raised by all in-laws to the tune of Rs.10,00,000/-. Therefore, initially *prima facie* allegations are against husband for demanding money for car, but subsequently similar allegations are raised against entire family.

6. In a landmark case of ***Girdhar Shankar Tawade v. State of Maharashtra***, (2002) 5 SCC 177, the Hon'ble Apex Court gave succinct enumeration of the object and ingredients of Section 498-A IPC as under :

“3. The basic purport of the statutory provision is to avoid "cruelty" which stands defined by attributing a specific statutory meaning attached thereto as noticed hereinbefore. Two specific instances have been taken note of in order to ascribe a meaning to the word "cruelty" as is expressed by the legislatures: whereas Explanation (a) involves three specific situations viz. (i) to drive the woman to commit suicide or (ii) to cause grave injury or (iii) danger to life, limb or health, both mental and physical, and thus involving a physical torture or atrocity, in Explanation (b) there is absence of physical injury but the legislature thought it fit to include only coercive harassment which obviously as the legislative intent expressed is equally heinous to match the physical injury : whereas one is patent, the other one is latent but equally serious in terms of the provisions of the statute since the same would also embrace the attributes of "cruelty" in terms of Section 498-A.”

7. Applying the principles laid down in ***State of Haryana and others v. Ch. Bhajan Lal*** ; AIR 1992 SC 604, and more particularly when there are omnibus, general and vague allegations raised against applicant nos. 4 to 9 and when “cruelty” as contemplated under law and as enumerated in ***Girdhar Shankar Tawade (supra)*** being not prima facie available, application to their

extent deserves to be allowed or else they would be unnecessarily forced to face the trial. Consequently, we proceed to pass following order :-

ORDER

- (i) The criminal application is partly allowed.
- (ii) Criminal application as regards to applicant nos.1 to 3 is dismissed as withdrawn.
- iii) The F.I.R. vide Crime bearing No.058 of 2023, dated 21.05.2023 registered with Islapur Police Station, District Nanded for the offences punishable under sections 323, 498-A, 504 and 506 r/w section 34 of Indian Penal Code and case bearing R.C.C. No.74 of 2023 pending on the file of learned Judicial Magistrate First Class, Kinwat are quashed and set aside to the extent of applicant Nos.4 to 9.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)