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criapln2590.23

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

CRIMINAL APPLICATION NO. 2590 OF 2023

1. Amol Raghunath Kawade ...**APPLICANTS**
2. Suman Raghunath Kawade
3. Vinayak Raghunath Kawade

VERSUS

1. The State of Maharashtra ...**RESPONDENTS**
Through Police Inspector
Police Station, Yusufwadgaon,
Tq. Kaij, Dist. Beed
2. Radha Amol Kawade

Mr. Ramraje D. Kawade, Advocate for the applicants

Mr. V. K. Kotecha, APP for the respondents/State

Mr. Divya P. Khandelwal, Advocate for the respondent No.2
(appointed)

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

DATE : 02nd JANUARY, 2024

ORDER [PER: SHAILESH P. BRAHME, J.]

1. Heard the litigating sides finally.
2. Learned counsel for the applicants seeks permission

to withdraw the application to the extent of applicant No.1-husband. Permission is granted. The application stands withdrawn to his extent.

3. The applicants have filed this application under Section 482 of the Code of Criminal Procedure for quashment of RCC NO. 237/2019 pending before the JMFC, Kaij, Dist. Beed. Respondent No.2 is the informant who lodged the FIR in Crime No.152/2019 of Yusufwadgaon Police Station, Kaij for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code against the applicants. Investigation has been completed and the charge-sheet has been filed on 23-12-2019 culminating into registration of RCC No. 237/2019.

4. Applicant No.1 is the husband of respondent No.2. Applicant No.2 is the mother-in-law and applicant No.3 is the brother-in-law of respondent No.2. Another brother-in-law Khanderao Kawade and his wife Priti Kawade were also

implicated. It is alleged by respondent No.2 in the complaint lodged with the police station that accused persons were ill-treating her on account of demand of Rs. 2 lakhs for purchasing a car. She was being nagged for various reasons. She was being harassed physically and mentally by the applicants and other relatives.

5. Learned counsel for the applicants submits that allegations against the applicants are omnibus without there being any specifications. No offence has been made out under Section 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code. Allegations are inherently improbable. It is further submitted that there was a decree of divorce between applicant No.1 and respondent No.2 passed on 09-03-2021 by the learned Judge of the Family Court, Osmanabad in Petition A No.14/2019 and accusation of ill-treatment are concocted.

6. Learned counsel for the applicants further submits that no offence can be made out from the papers of the charge-

sheet. Statements of the witnesses do not show specific incriminating role against the applicants. He would submit that it is an abuse of process of law to proceed against the applicants. He has invited our attention to the order passed by this court quashing the proceeding against the brother-in-law Khanderao Kawade and his wife Preeti Kawade in Criminal Application No.1687 of 2022 dated 19-04-2023.

7. Learned APP submits that there are specific allegations in the FIR as well as statements recorded by the police during the course of the investigation. He would submit that decree passed by the Family Court would not enure to the benefit of the applicants because overtact alleged by the applicant was prior to the period of desertion. Learned APP refers to the statements of witnesses namely Mahadeo Gaikwad, Krushna Gaikwad, Mahananda Gaikwad, Ramhari Chalak, Arjun Gunthal and Janabai Khade.

8. Learned advocate for respondent No.2 supports the

submission of learned APP. Additionally he would submit that order passed by this court in Criminal Application No. 1687/2022 is not helpful to the applicants because there was no incriminating role against those applicants.

9. We have considered the submission of the litigating sides. We have gone through the FIR as well as statements referred by the learned counsels during the course of the hearing. The criminal application has been withdrawn to the extent of applicant No.1. Remaining applicants are mother-in-law and brother-in-law of respondent No.2.

10. The complaint lodged by respondent No.2 shows that allegations against the applicants are omnibus. No specific role has been attributed. Statements of witness which are produced on record also do not show any different picture. In the absence of specific allegations we are of the considered view that no offence is made out against applicants.

11. Statements of Mahadeo Gaikwad, Krushna Gaikwad, Mahananda Gaikwad, Ramhari Chalak, Arjun Gunthal and Janabai Khade do not indicate any incriminating role against the applicants. Statement of Janabai which is referred to by the learned advocate for respondents No.2 is of little help because she happens to be a Marriage Counselor and not a witness or relative of the parties. Her statement refers to allegations contained in the application tendered to the counselling centre. Prima-facie no case can be made out against the applicants. Considering the material produced on record, we pass following order.

ORDER

a] Criminal Application to the extent of applicant No.2 Suman Kawade and applicant No.3 Vinayak Kawade is allowed.

b] RCC No. 237/2019 pending before the learned JMFC, Kaij, Dist. Beed is quashed and set aside.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]