



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

CRIMINAL APPLICATION NO. 2655 OF 2023

1. Anil S/o Narsingrao Wattamwar,
Age : 56 years, Occu. : Service (Ex-Soldier),
R/o S. No. 4/1/6A, B-9, Flat No. 901,
Fortune Shubham Co-operative
Housing Society, Yewalwadi,
Pune.
2. Shalu w/o Anil Wattamwar,
Age : 49 years, Occu. : Household,
R/o As above.
3. Antariksh S/o Anil Wattamwar,
Age : 25 years, Occu. : Service,
At Present R/o. B/401, Kingstone
Annex C.H.S., Survey No. 72,
72B, VN02/59372, Bhabhola Naka,
Kaul Heritage City, Chulane,
Vasai West 401202, Dist. Palghar. .. Applicants

Versus

1. The State of Maharashtra,
Through Investigation Officer,
Police Station, Pundalik Nagar,
Tq. & Dist. Aurangabad.
2. Pratiksha @ Nilama W/o Ashutosh
Wattamwar, Age : 24 Years,
Occu. : Household, R/o Survey No.
59/2/59, Flat No. 401, Krupa Sindhu
Society, Sukhsagar Nagar, Kondhva
Khurd, Pune 411048, at present
R/o Plot No. 31, Flat No. 83,
Chaudhari Galaxy Parijat Nagar,
Aurangabad. .. Respondents

Shri P. P. More, Advocate h/f Shri Yogesh K. Bobade, Advocate for the Applicants.

Shri S. S. Dande, A.P.P. for the Respondent No. 1.

Shri Prasad D. Jarare, Advocate for the Respondent No. 2.

**WITH
CRIMINAL APPLICATION NO. 2726 OF 2023**

Ashutosh S/o Anil Wattamwar,
Age : 28 years, Occu. : Service,
R/o C/o Balaji Bhujang Wattamwar,
Survey No. 59/2/59, Flat No. 401,
Krapa Sindhu Society, Sukhsagar
Nagar, Kondhva Khurd, Pune 411037. .. Applicant

Versus

1. The State of Maharashtra,
Through Investigation Officer,
Police Station, Pundalik Nagar,
Tq. & Dist. Aurangabad.
2. Pratiksha @ Nilama W/o Ashutosh
Wattamwar, Age : 24 Years,
Occu. : Household, R/o Survey No.
59/2/59, Flat No. 401, Krapa Sindhu
Society, Sukhsagar Nagar, Kondhva
Khurd, Pune 411048, at present
R/o Plot No. 31, Flat No. 83,
Chaudhari Galaxy Parijat Nagar,
Aurangabad. .. Respondents

Shri P. P. More, Advocate h/f Shri Ashok R. Tapse, Advocate for the Applicant.

Shri S. S. Dande, A.P.P. for the Respondent No. 1.

Shri Prasad D. Jarare, Advocate for the Respondent No. 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 08 MAY 2024.**

JUDGMENT (*Per Shailesh P. Brahme, J.*) :-

. Heard both the sides finally.

2. After hearing learned counsel for the applicants in both the criminal applications for sometime, when we expressed our disinclination to grant any relief in favour of applicant Nos. 1 and 2 in Criminal Application No. 2655 of 2023 and sole applicant in Criminal Application No. 2726 of 2023 on merits, learned advocate for the applicants on instructions of the applicants seeks leave to withdraw criminal applications to their extent. Leave is granted. Criminal Application No. 2655 of 2023 stands dismissed as withdrawn to the extent of applicant Nos.1 and 2. Criminal Application No. 2726 of 2023 stands dismissed as withdrawn to the extent of sole applicant.

3. Presently, we are considering Criminal Application No. 2655 of 2023 to the extent of applicant No. 3/ Antariksh S/o Anil Wattamwar only.

4. These criminal applications are for quashment of first information report bearing CR No. 224/2023 registered with Pundalik Nagar Police Station, Aurangabad, consequential charge sheet No. 167/2023 and R.C.C. No. 2529 of 2023 pending before learned Judicial Magistrate First Class, Aurangabad for offence punishable U/Sec. 498-A, 354, 323, 504, 506 r/w Sec. 34 of the Indian Penal Code. Respondent No. 2 is informant, who was married with Ashutosh Anil Wattamwar on 28.06.2021.

Applicant Nos. 1 and 2 in Criminal Application No. 2655 of 2023 are her parents-in-law. Present applicant No. 3 is her brother-in-law.

5. It is reported by the informant to the police that in her marriage dowry of Rs. 21 Lakhs, 150 gm. gold and other articles were given by her parents to the accused. She initially resided at Nanded with the applicants and thereafter shifted to Pune along with them. It is alleged that she was subjected to harassment for not giving adequate dowry and for not performing marriage ceremony as expected. She was being demanded Rs. 15 Lakhs for purchasing a car. She was being abused, taunted and subjected to mental/physical cruelty for bringing amount from her father. It is further alleged that in 2022, she was beaten by the husband at the instance of parents-in-law and driven out of the home by suspecting fidelity. It is further contended that on 14.10.2022, episode of beating was repeated and she was threatened by her husband of disclosing and circulating her videos and photos. She was driven out of the home on 25.01.2023. When she was at her parents place, she was being abused and threatened by her husband.

6. Learned counsel for the applicants Mr. P. P. More submits that applicant No. 1 is Ex-serviceman and was residing at various places in Pune. The applicant No. 3 also did not share common shelter with the respondent No. 2 and her husband. He was pursuing career in banking and appointed as a clerk in SBI Bank at Aurangabad. Thereafter, he was appointed as an

Assistant Manager in Maharashtra Gramin Bank, Ambejogai on 04.06.2022. Thereafter he was appointed as Assistant Manager in CIDBI Bank after 14.07.2022. It is further submitted that he resides and works at Vasai, Dist. Palghar. He was not concerned with the alleged illtreatment. He is falsely implicated in the offence to wreck vengeance. It is further submitted that no offence can be made out from the papers of investigation. At the time of alleged incident on 25.01.2023, he was not at Pune, but was at Vasai at his work place.

7. Learned Assistant Public Prosecutor opposes the submissions of the applicants. He would submit that there are specific allegations made against the applicant No. 3. He would point out the statements of the witnesses to show involvement of the applicants.

8. Learned counsel for the respondent No. 2 has vehemently opposed the submissions of the applicants. He would point out allegations in FIR and the reply submitted by the applicant No. 1/Anil Wattamwar to Women Grievance Cell, Sililekhana, Chhatrapati Sambhajanagar. He would submit that the informant was not only being harassed for demand of money, but also threatened to circulate her objectionable videos and photos. He would rely on the statements of Padmin, Vilas, Sunanda and Satish to point out the involvement of the applicant No. 3. He would persuade us by pointing out that charges are framed in R.C.C. No. 2529 of 2023 and it is posted for evidence.

9. We have considered submissions of the parties. We have also gone through relevant papers of investigation. We need not comment on the involvement of the husband, father-in-law and mother-in-law of the informant as they have withdrawn applications to their extent. The applicant No. 3 is admittedly brother-in-law, who was unmarried at the relevant time.

10. It reflects from first information report that there are no specific allegations against him. There is only cursory reference of his name. The documents on record would indicate that he was pursuing his career. He secured job at Maharashtra Gramin Bank at Aurangabad and, thereafter, in CIDBI Bank from 07.07.2022. It reveals that he was residing at Nalasopara, Vasai and rendering services in the bank at Vasai. There is every possibility that he was residing separate from his parents as well as married couple. There is no material to show that he had gone to place of informant to subject her to illtreatment.

11. Statements of the witnesses pointed out by the learned counsel for the respondent No. 2 would not enure to the benefit of the respondent No. 2 because those are hear-say witnesses and they are collating the events as gathered from the informant. Those statements do not show specific overt act against the applicant No. 3. Record further reveals that the relationship of the informant with her husband and parents-in-law is strained. In all probabilities, she has roped the applicant No. 3 to settle scores. We find that no offence can be made out against the applicant No. 3.

12. Learned counsel for the respondent No. 2 seeks to rely on the judgment of the Supreme Court in the matter of Supriya Jain Vs. State of Haryana and another reported in *(2023) 7 SCC 711*. Learned counsel would point out paragraph Nos. 16 and 17 of the judgment. In the case in hand, charges are framed and the matter is posted for recording of evidence. The principle stated in paragraph No. 17 cannot be disputed. But so far as ratio laid down in paragraph No. 16 is concerned, case in hand is distinguishable. Hence this judgment cannot be made applicable to the case in hand.

13. In view of the law laid down by the Supreme Court in the matters of Geeta Malhotra and another Vs. State of U. P. and another reported in *(2012) 10 SCC 741* and *Kahkashan Kausar @ Sonam and others Vs. State of Bihar* reported in *(2022) 6 SCC 599*, we are of the considered view that it would be an abuse of process of law to proceed against the applicant No. 3.

14. For the reasons stated above, we pass following order.

O R D E R

A. The Criminal Application No. 2655 of 2023 is partly allowed to the extent of the applicant No. 3.

B. First Information Report bearing CR No. 224/2023 registered with Pundalik Nagar Police Station, Aurangabad,

consequential charge sheet No. 167/2023 and R.C.C. No. 2529 of 2023 pending before learned Judicial Magistrate First Class, Aurangabad for the offence punishable U/Sec. 498-A, 354, 323, 504, 506 r/w Sec. 34 of the Indian Penal Code are quashed and set aside to the extent of the applicant No. 3/Antariksh Anil Wattamwar.

C. The Criminal Application No. 2655 of 2023 stands dismissed as withdrawn to the extent of applicant Nos. 1 and 2. The Criminal Application No. 2726 of 2023 stands dismissed as withdrawn to the extent of sole applicant.

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

bsb/May 24