



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3233 OF 2022

- 1] Rajendra S/o Bajirao Kolhe
- 2] Ravindra S/o Bajirao Kolhe
- 3] Shardabai Wo Ravindra Kolhe
- 4] Kokila Bajirao Kolhe

.. Applicants

Versus

- 1] The State of Maharashtra
Through the Police Inspector,
Police Station, M.I.D.C., Jalgaon,
Tq. and Dist. Jalgaon

- 2] Vijaya W/o Rajendra Kolhe

.. Respondents

...
Advocate for applicants : Mr. Prakash V. Balkhande
APP for the respondent – State : Mr. V.M. Jaware
Advocate for respondent no. 2 : Mr. M.V. Navandar
...

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

DATE : 4 MARCH 2024

PC :

We have heard both the sides.

2. By resorting to section 482 of the Code of Criminal Procedure, the applicants are seeking quashment of the crime no. -277 of 2022 registered with M.I.D.C. Police Station, Jalgaon, Taluka and District - Jalgaon for the offence punishable under section 498-A r/w. 34 of the Indian Penal Code and the consequent chargesheet and Regular Criminal Case no. 20 of 2023.

3. Learned advocate for the applicants submits that accepting the allegations in the FIR at the face value, the FIR has been lodged after a long slumber of 8 years. Admittedly, the respondent no. 2 has not been keeping matrimonial relationship with the applicant no. 1 and has been residing with her parents since the year 2020. However, the FIR has been lodged on 20-04-2022. He would submit that the allegations are vague and omnibus. No specific incident has been quoted. For some ulterior reason, the applicants have been roped in as an afterthought.

4. Learned APP and the learned advocate for the respondent no. 2 opposes the application. They would submit that this Court has inherent limitation while exercising powers under section 482 in quashment of a crime. Investigation has been concluded and the chargesheet has been filed. Prima facie, there are allegations about ill-treatment.

5. Learned advocate for the respondent no. 2 would further submit that the respondent no. 2 has been staying with the parents. She has been pursuing remedy in the form of maintenance proceeding but the applicant no. 1 has not been co-operating. He is not paying the maintenance and left with no choice, she has filed the FIR.

6. True it is that there is some delay in lodging the FIR inasmuch as, it has been lodged about 7 years after the respondent no. 2 returned back to the parental home.

7. Be that as it may, the allegations in the FIR are as vague as it could be. No specific role is attributed to the rest of the applicants except the husband. Not paying maintenance even to a deserted wife for years together could prima facie constitute 'continuing cause'.

8. The applicant no. 1 being husband of the respondent no.2, apart from the allegations in the FIR, the fact that he has not been paying the maintenance and neglecting the respondent no. 2 also could possibly constitute an act bordering cruelty. Obviously, the issue will have to be addressed by the trial Court.

9. So far as rest of the applicants are concerned, there are no specific and precise allegations much less to demonstrate any role played by them in subjecting respondent no. 2 to cruelty.

10. In the circumstances, it would be abuse of the process of law to allow the rest of the applicants to face the prosecution with such scanty material and belated allegations. However, the same cannot said in respect of applicant no. 1 – husband. He would be under constant legal obligation to maintain the respondent no. 2.

11. The application is partly allowed.

12. The application to the extent of applicant no. 1 is rejected.
13. Application to the extent of applicants no. 2 to 4 is allowed. Crime no. 277 of 2022 registered with M.I.D.C. Police Station, Jalgaon, Taluka and District - Jalgaon for the offence punishable under section 498-A r/w. 34 of the Indian Penal Code and the consequent chargesheet and Regular Criminal Case no. 20 of 2023 are quashed and set aside to the extent of applicants no. 2 to 4.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/