



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

945 CRIMINAL APPLICATION NO.3243 OF 2023

- 1 Gambhir Vishwas Shinde,
Age 60 yrs., Occ. Agri.,
- 2 Shobha w/o Gambhir Shinde,
Age 58 yrs., Occ. Household,

Applicant Nos.1 and 2 are
R/o Hari Shankar Nagar, Near
Shivdham Temple, Old Nimkhedi Road,
Jalgaon, Tq. & Dist. Jalgaon.

- 3 Gayatri w/o Bhagwan Patil,
Age 40 yrs., Occ. Agri.,
- 4 Bhagwan Ganesh Patil,
Age 45 yrs., Occ.

Applicant Nos.3 and 4 are
R/o Plot No.46, Wadibhokar road,
Near Parnerkar Maharaj Mandir,
Suyog Nagar, Deopur, Dhule,
Tq. & Dist. Dhule.

- 5 Manohar Vishwas Bhambhare,
Age 60 yrs., Occ. Service,
- 6 Nalini w/o Manohar Bhambhare,
Age 57 yrs., Occ. Household,
- 7 Vikay @ Rohit Manohar Bhambhare,
Age 20 yrs., Occ. Student,
R/o Shamrao Nagar, Jalgaon,
Tq. & Dist. Jalgaon.

... Applicants

... **Versus** ...

- 1 The State of Maharashtra
Through Police Sub Inspector,
Deopur Police Station, Dhule,
Tq. & Dist. Dhule.
- 2 Bhavna w/o Amol Shinde,
Age 27 yrs., Occ. Household,
R/o C/o Ravindra Bhalerao Pawar,
Plot No.23/C, Ajay Nagar, Deopur,
Dhule, Tq. & Dist. Dhule.

... **Respondents**

...

Mr. U.S. Patil, Advocate for applicants

Mr. A.V. Lavte, APP for respondent No.1

Mr. P.C. Mayure, Advocate for respondent No.2

...

CORAM : SMT. VIBHA KANKANWADI &
S.G. CHAPALGAONKAR, JJ.

DATE : 10th OCTOBER, 2024

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing and setting aside proceedings i.e. Regular Criminal Case No.984/2022 pending before learned Judicial

Magistrate First Class, Dhule arising out of First Information Report vide Crime No.201/2022 dated 21.08.2022 registered with Deopur Police Station, Dhule, for the offence punishable under Section 498-A, 504, 506, 406 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. U.S. Patil for applicants, learned APP Mr. A.V. Lavte for respondent No.1 and learned Advocate Mr. P.C. Mayure for respondent No.2.

3 The petitioners are relatives of husband of respondent No.2. It is the contention of applicants that marriage between respondent No.2 and original accused No.1 was solemnized on 21.02.2018 and thereafter she stayed with parents-in-law i.e. applicant Nos.1 and 2 only for (08) days. Thereafter, the informant went along with her husband to Dubai, where he was serving. She never returned to stay with applicants. Informant is residing with her parents since 28.10.2019. Therefore, there is no question of any harassment at their hand to the informant. First Information Report against them is the outcome of concocted story.

4 Learned Advocate for respondent No.2 submits that details of harassment are given. Though the informant had gone along with her husband to Dubai, but she had specifically stated that she returned on

21.09.2018. The harassment was on the count that proper honour has not been given by giving gifts. Applicant No.2 had expressed that respondent No.2 ought not to have got pregnant so early. The informant has been harassed mentally and physically. Even her son has been harassed physically by applicant No.2. All the accused persons were harassing her and, therefore, this is not a fit case where the proceedings should be quashed and set aside.

5 The important point to be noted is that when the marriage had taken place on 21.02.2018, she stayed in the matrimonial home for about eight days and thereafter immediately went along with husband to Dubai. She says that she became pregnant and according to her, when she informed the said fact to mother-in-law, the mother-in-law told that if the child takes birth, then they will not take care and, therefore, she should get herself aborted. According to her, husband was instigated, whereupon he was insisting that she should get aborted. When she refused, husband brought her to India on 21.09.2018. She stayed in the matrimonial home for about two days and thereafter went to her parental home at Dhule on 23.09.2018. She says that since Diwali of 2018 till delivery she was in her parental home, however, she gave birth to the son on 12.05.2019 in Dhule. Then she says that on 27.08.2019 she went along with son to matrimonial home and

thereafter she was harassed mentally and physically as well as her son was harassed. If we consider the stay of the informant in the matrimonial home, then it is hard to believe that the alleged harassment was of such a nature that it can be termed as 'cruelty' as defined under Section 498-A of the Indian Penal Code. No specific role has been attributed to any of the applicants. Mere use of words 'mental and physical cruelty' is not sufficient. The acts will have to be explained then only they can be categorized. The statements of witnesses are also on the same line. Further, we cannot ignore the fact that husband had given notice for resumption of cohabitation and thereafter has lodged petition under Section 9 of the Hindu Marriage Act before Family Court, Jalgaon. Therefore, taking into consideration the material, we are of the opinion that it would be unjust to ask the applicants to face the trial. Hence, following order.

ORDER

- i) Criminal Application stands allowed.
- ii) Charge sheet i.e. proceedings in Regular Criminal Case No.984/2022 pending before learned Judicial Magistrate First Class, Dhule arising out of First Information Report vide Crime No.201/2022 dated 21.08.2022 registered with Deopur Police Station, Dhule, for the offence

punishable under Section 498-A, 504, 506, 406 read with Section 34 of the Indian Penal Code, 1860 stands quashed and set aside as against applicant Nos.1 to 7.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

agd