



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

CRIMINAL APPLICATION NO. 3261 OF 2023

1. Amar s/o Harichandra Tikore
Age: 33 yrs., Occu.: Service,
R/o. Flat No.201, Wing A3,
Spelounder Apartment, Meghapolis,
Hinjewadi, Phase No.3, Pune.
2. Harichandra s/o Ramchandra Tikore
Age: 63 yrs., Occu.: Nil.
3. Kaushalya w/o Harichandra Tikore
Age: 54 yrs., Occu.: Household,
Petitioner No.2 and 3 R/o. Malewadi,
Akluj, Tal.Malshiras, Dist.Solapur.Applicants

Versus

1. The State of Maharashtra
Through Police Station Officer,
M.I.D.C. Police Station,
Dist.Ahmednagar.
2. Ashwini w/o Amar Tikore
Age: 29 yrs., Occu.: Service,
R/o. House No.389, Adarsh Nagar,
Near Ram Mandir, Navnagapur,
Tal. And Dist.Ahmednagar.
Mo.No.9028579736Respondents
(Resp.no.2 Orig. Complainant)

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Advocate for Applicant : Mr. Rajendra Sudam Kasar
APP for Respondent no.1 : Mrs.R.P Gour
Advocate for Respondent no.2 : Mr.S.D.Jayabhar

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

DATE : 08 AUGUST, 2024

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

1. Prayers in instant application are for exercise of powers under Section 482 of the Code of Criminal Procedure for quashing FIR and consequential chargesheet for commission of offence under Sections 323, 498-A, 504, 506 r/w 34 of the Indian Penal Code (IPC).

2. Pressing for the above prayers, learned Counsel for the applicants took this Court through the FIR dated 27-02-2023 lodged at M.I.D.C. Police Station Ahmednagar by present respondent no.2, who was married to applicant no.1, and would submit that admittedly marriage is of 07-01-2021, and instant FIR, which is out of annoyance and with sole intention to rope in entire family, by levelling false allegations, which are apparently general, vague and omnibus in nature. It is submitted that most of the allegations are against husband but even parents-in-law are also roped in with attitude of vengeance. It is pointed out that applicant no.2 is retired as Vice Principal of a High School. That applicant nos.2 and 3 had not only rendered financial assistance to their own son and informant daughter-in-law but even to the relatives of informant / respondent no.2. That there were matrimonial discords between applicant no.1 and informant / respondent no.2, which were tried to be reconciled.

That respondent no.2 herself left the house and levelled false allegations of being driven out. Learned Counsel pointed out that allegations are of quarrel on trifle grounds and taunts without specifying instances or dates of such occurrence. According to learned Counsel, it is purely abuse of process of law. Applicant nos.2 and 3, who have no concern with the domestic affairs and relations between their son and daughter-in-law are also implicated. According to learned Counsel, they both are senior citizens and are moreover residents of Akluj, whereas applicant no.1 husband and informant / respondent no.2 who both are IT Engineers, are residing at Pune. Therefore, learned Counsel urges to consider and grant relief as prayed or else they would be made to suffer injustice and face trial on false, concocted, fabricated version.

3. While resisting the above reliefs, learned Counsel for respondent no.2 as well as learned APP pointed out that there was demand of money for purchasing house. On account of non-fulfillment, there was both physical and mental cruelty. Informant has categorically reported about it. Learned Counsel for respondent no.2 took this court through the affidavit and annexures compromising of the bank statement of respondent no.2 and would submit that all

applicants were pressurizing informant to pay her salary to them. That consequently there is both mental as well as physical cruelty. That there being sufficient material for trial, it is prayed that application be rejected.

4. At the threshold, it needs to be clarified that at the initial stage, application and prayers with regard to applicant no.1 husband were not pressed and hence, proceeding stood withdrawn as against him i.e. by order dated 09-10-2023. Therefore, instant proceedings remain for consideration as regards to entitlement of relief for applicant nos.2 and 3 i.e. parents-in-laws of informant.

5. After hearing each of the side at length and on going through the FIR, it is emerging that marriage of applicant no.1 and informant / respondent no.2 is of 07-01-2021. There is no dispute that they both are Engineers and are placed in IT Sector. According to informant, for initial period everything was smooth, but then after two months she alleges that there used to be quarrel with in-laws during the time of lock down. It is clearly reflected in the report that on domestic counts like cooking, mother-in-law intermittently taunted. Her such version shows that there is no consistent or

continuous mal-treatment of serious nature. It is also noticed that she has alleged beating but at the hands of husband alone. Further allegations are made that her entire salary was sought by them and that even time to time she was kept starved. The bank statement annexed with affidavit does show that amounts were transferred at times, but the same were through online mode or by UPI mode. There is nothing to show that her entire salary was forcibly taken by applicants. Contention of applicant no.2 that he has retired as Vice Principal and is still continuing job in another private school has not been denied or refuted. Consequently, applicant nos.2 and 3, who are apparently shown to be residents of Akhuj, are shown to be financially independent. Allegations of beating are attributed to applicant no.1 husband, but he has already withdrawn application and prayers.

6. Consequently, in the light of above material, with such quality of allegations, making applicant nos.2 and 3 face trial does amount to injustice, more particularly, when there are only general and vague allegations.

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 general, vague and omnibus allegations, and when “cruelty” as contemplated under law and as enumerated in ***Girdhar Shankar Tawade v. State of Maharashtra*** (2002) 5 SCC 177 being not *prima facie* available, this Court finds it a fit case for exercising powers under Section 482 of the Code of Criminal Procedure to quash proceedings against applicant nos.2 and 3. Accordingly, following order is passed :

ORDER

- I. The application stands allowed to the extent of applicant nos.2 and 3.
- II. The FIR No.0177 of 2023 dated 27-02-2023 registered with M.I.D.C. Police Station, Ahmednagar, Chargesheet no. 88 of 2023 dated 30-09-2032 and the proceedings in RCC No.496 of 2023 pending before the learned JMFC, Ahmednagar are hereby quashed and set aside to the extent of applicant nos.2 and 3.

(ABHAY S. WAGHWASE)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE