



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3262 OF 2023

1. Vishnu Sambhaji Kadam
2. Kantabai Sambhaji Kadam
3. Dnyaneshwar Sambhaji Kadam
4. Gangasagar Vitthal Jadhav
5. Vitthal Shesherao Jadhav
6. Kundlik Dnyanoba Ladhe ... **APPLICANTS**

**VERSUS**

1. The State of Maharashtra  
through in Charge, Ahmednagar Taluka  
Police Station Ahmednagar,  
Dist Ahmednagar
2. Anusaya Vishnu Kadam ... **RESPONDENTS**

Advocate for Applicants : Mr. Mahesh K. Bhosale and Mr. S.N. Pawde  
A.P.P. for respondent/State : Mr. D.B. Bhange  
Advocate for respondent No.2 : Mr. S.P. Katneshwarkar

**CORAM** : **MANGESH S. PATIL &  
R.M. JOSHI, JJ.**

**DATED** : **05.02.2024**

**ORDER (MANGESH S. PATIL, J.) :**

Heard both the sides finally at the stage of admission.

2. The applicants by resorting to Section 482 of the Code of Criminal Procedure are seeking quashment of FIR No.0313/2023

registered with Hatta Police Station for the offences punishable under Section 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code and the subsequent charge-sheet which is filed in RCC No.264/2023 before the Judicial Magistrate First Class, Basmat.

3. After hearing both the sides when we express our disinclination to grant any relief to the applicant No.1 who is the husband of the respondent No.2 his learned advocate seeks leave to withdraw the application to his extent.

4. The learned advocate for the applicants would submit that the FIR is figment of concoction and has been lodged as an afterthought, after the applicant No.1 - husband filed a petition for divorce. The couple was married in the year 2011. The couple beget two children and the allegations about ill-treatment are only of the period after 2017. The allegations primarily are against the husband. There are no precise and specific allegations against the other applicants. The FIR has been lodged in the year 2023. At no earlier point of time respondent No.2 had sought to set the criminal law in motion. Though the investigation is over and a charge-sheet has been filed no incriminating material could be collected to reveal complicity of the other applicants in subjecting the respondent No.2 to cruelty. The learned advocate would refer to the following decisions :

- i. **Narayan s/o Eknath Devkar & Ors. Vs. State of Maharashtra & Ors.; 2022 ALL MR (Cri) 3193**

- ii. **Kahkashan Kausar @ Sonam and Ors. Vs. State of Bihar and Ors.;**  
**2022 ALL SCR (Cri) 433**
- iii. **Supriya Raju @ Rajkumar Biradar Vs. State of Maharashtra & Anr.;**  
**2021 ALL MR (Cri) 1460**
- iv. **Anil Baban Rathod & Ors. Vs. The State of Maharashtra & Anr.;**  
**2021 ALL MR (Cri) 1455**
- v. **Shaikh Mushraf Pasha s/o Shaikh Mushtakh Pasha & Anr.;**  
**2021 ALL MR (Cri) 3020**

5. The learned APP and the learned advocate for the respondent No.2 oppose the application. They would submit that even against the other accused there are allegations. It is a matter of proof which can be had only during the trial. An opportunity deserves to be extended to the prosecution to substantiate the allegations by leading cogent and convincing evidence.

6. We have carefully considered the rival submissions and perused the charge-sheet. Admittedly, the couple was married in the year 2011 and even the FIR reads that there was no dispute and the respondent No.2 was leading happy married life at least till 2017. The FIR alleges about she having come back to the parental home in the year 2020. The matter boils down to the allegations regarding the alleged ill-treatment meted out to the respondent No.2 from 2018 to 2020.

7. However neither the FIR nor even the statements of the witnesses recorded under Section 161 of the Code of Criminal Procedure give vague particulars about any incidence which could have taken place during this period between 2018 and 2020. The statements of the witnesses are apparently similar. They all have spoken about some

episode dated 29.12.2020, wherein, they all have stated about the applicant No.1 - husband was seen telling the respondent No.2 to bring money for purchasing a house property and a car and stating that he would not allow her to resume the matrimonial tie without meeting his demands. Conspicuously, the only sentence in all these statements is to the effect that after maintaining properly for five years of marriage the husband having subjected her to ill-treatment, physical as well as mental, on account of his insistence for fetching money for buying a house property and a vehicle. They have not even whispered about any role having been played by the rest of the applicants in subjecting the respondent No.2 to cruelty.

8. We have no hesitation in reaching a conclusion that the rest of the applicants have been implicated being relatives of the husband and in all probability to harass them. It is a case clearly covered by **Kumari Geeta Mehrotra and Anr. Vs. State of U.P. and Anr.; AIR 2013 SC 181** which in turn has been referred to in the aforementioned decisions.

9. It would be sheer abuse of the process of law if the applicant Nos.2 to 6 are allowed to face the prosecution without there being even an iota of material which would make out any ingredient of the offence with which they have been charged.

10. The Application is partly allowed. The FIR No.0313/2023 registered with Hatta Police Station for the offences punishable under Section 498A, 323, 504, 506 read with Section 34 of the Indian Penal

Code and the subsequent charge-sheet which is filed in RCC No.264/2023 before the Judicial Magistrate First Class, Basmat are quashed and set aside.

11. The Application to the extent of the applicant No.1 is dismissed as withdrawn.

**[ R.M. JOSHI ]**  
**JUDGE**

**[ MANGESH S. PATIL ]**  
**JUDGE**

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