



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

953 CRIMINAL APPLICATION NO.3329 OF 2023

1 Balkrishna Yadavrao Desai,
Age 61 yrs., Occ. Agri.,

2 Kiran w/o Balkrishna Desai,
Age 59 yrs., Occ. Household,

Applicant Nos.1 and 2 are r/o Zodge,
Tq. Malegaon, Dist. Nashik.

3 Pallavi w/o Dipak Magar,
Age 32 yrs., Occ. Household,

4 Dipak Prataprao Magar,
Age 35 yrs., Occ. Service,

Applicant Nos.3 and 4 are r/o Arbari,
Borkhat, Near Shiv Mandir,
Dist. Kamrup (Assam).

5 Ashwini w/o Bhushan Bagul,
Age 30 yrs., Occ. Service,

6 Bhushan Madhukar Bagul,
Age 33 yrs., Occ. Service,

Applicant Nos.5 and 6 are
r/o Flat No.202, Vrundavan residency,
Sant Sena Nagar, Deopur, Dhule.

... Applicants

... **Versus** ...

1 The State of Maharashtra
Through the Police Sub Inspector,
Jalgaon Taluka Police Station,

Jalgaon, Tq. & Dist. Jalgaon.

- 2 Jayshri w/o Vinod Desai,
Age --- yrs., Occ. Household,
R/o C/o Bhimrao Chavdas Patil,
Mamurabad, Tq. & Dist. Jalgaon.

... **Respondents**

...

Mr. U.S. Patil, Advocate for applicants

Mr. S.A. Gaikwad, APP for respondent No.1

Mr. M.M. Bhokariker, Advocate for respondent No.2

...

**CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.**

DATE : 03rd DECEMBER, 2024

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

1 Present application has been filed initially for quashing the First Information Report vide Crime No.236/2023 dated 17.07.2023 registered with Jalgaon Taluka Police Station, Jalgaon and by way of amendment to quash and set aside the proceedings in Regular Criminal Case No.635/2023 pending before learned Judicial Magistrate First Class, Jalgaon, for the offence punishable under Section 498-A, 323, 504, 510 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. U.S. Patil for applicants, learned APP Mr. S.A. Gaikwad for respondent No.1 and learned Advocate Mr. M.M. Bhokarikar for respondent No.2.

3 Learned Advocate representing the applicants submits that perusal of the First Information Report and the contents of charge sheet would show that main allegations are against the husband, who is not before this Court. The allegations against the applicants are general in nature and no specific role is attributed. Applicant Nos.1 and 2 i.e. parents-in-law are old enough. The married sisters and their husbands are also roped in.

4 Per contra, learned Advocate for respondent No.2 relies on the affidavit-in-reply filed by respondent No.2 and along with the same she has also filed copies of petition, which she has filed under Section 125 of the Code of Criminal Procedure and the petition that is filed by husband for divorce and her written statement in the same. Respondent No.2 was harassed by making demand of Rs.10,00,000/-, which was demanded for construction of house. Learned Advocate relies on the Three Judge Bench decision of Hon'ble Apex Court in **Priyanka Jaiswal vs. State of Jharkhand and others** [AIR OnLine 2024 SC 353], wherein it was found that when the averments are made out against in-laws, then it will not be a fit case for

exercise of powers for quashment of First Information Report and proceedings.

5 It is not in dispute that respondent No.2 got married to Vinod, who is son of applicant Nos.1 and 2 on 22.03.2019. Respondent No.2 is blessed with a daughter. Respondent No.2's husband serves as Post Master and at the time of their marriage he was posted at Sherul, Tq. Malegaon, Dist. Nashik. She says that after the marriage she was treated properly for about four months, but thereafter, as her husband got addicted to liquor, he started giving harassment to her. She begotten daughter on 30.01.2020. Thus, since four months from 22.03.2019, which would be around July – August, 2019, she says that she was treated properly and thereafter till 30.01.2020, she says that she was harassed by husband under the influence of liquor. However, as regards the present applicants are concerned, no reason for harassment has been given. Mere use of the word 'mental and physical harassment' will not be sufficient. The reason and the acts of harassment should be given. She then says that after the daughter was born, the husband and parents-in-law started saying that they have to build a house and, therefore, she should bring amount of Rs.10,00,000/-. When she showed inability, she had stated that her husband and in-laws started harassing her more. Then, she says that applicant No.3's husband i.e.

applicant No.4, who is in Army, used to come in holidays and used to instigate applicant Nos.1, 2 and her husband. Even applicant No.3 also used to say that informant should bring amount of Rs.10,00,000/-. When she refused, they started harassing her more. There was no difference in their behaviour even after her father had persuaded them. The husband had then left her to her parental home in August, 2022 by saying that till she brings amount of Rs.10,00,000/- she should not return to home.

6 Statements of witnesses are on the same line. In the First Information Report as well as in the statements of witnesses there is absolutely no act described which would amount to harassment or cruelty at the hands of present applicants. There are no allegations against applicant Nos.5 and 6 except mentioning their names. In respect of decision in **Priyanka Jaiswal** (supra) we would like to say that Hon'ble Apex Court had considered contents of First Information Report and after perusal of the same had come to the conclusion that said First Information Report makes out a case invoking the ingredients of Section 498-A of the Indian Penal Code. Here, we have also taken note of the contents of First Information Report as well as charge sheet. At the cost of repetition, we would say that mere use of the words 'harassment' and 'cruelty' the cruelty as contemplated under Section 498-A of the Indian Penal Code even *prima facie* will not be gets

attracted. The acts will have to be described to categorize them as either mental harassment or physical harassment or in certain cases both and, therefore, the said decision is not applicable to the facts in the First Information Report and the contents of charge sheet before this Court. Therefore, case is made out for exercise of powers under Section 482 of the Code of Criminal Procedure as the case gets befitted in the guidelines under **State of Haryana and others vs. Ch. Bhajan Lal and others** [AIR 1992 SC 604]. Hence, following order.

ORDER

- i) Criminal Application stands allowed.
- ii) Proceedings in Regular Criminal Case No.635/2023 pending before learned Judicial Magistrate First Class, Jalgaon arising out of First Information Report vide Crime No.236/2023 dated 17.07.2023 registered with Jalgaon Taluka Police Station, Jalgaon, for the offence punishable under Sections 498-A, 323, 504, 510 read with Section 34 of the Indian Penal Code, 1860 stands quashed and set aside as against applicants.

(ROHIT W. JOSHI, J.)

(SMT. VIBHA KANKANWADI, J.)

agd