



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3582 OF 2022

1. Sunanda W/o Gautam Awsarmal
2. Bhimai @ Bhimabai W/o Shripati Shirsat
3. Kanchan lD/o Gautam Awsarmal
4. Pradeep Shripati Shirsat (Dead)
5. Dadasaheb Shripati Shirsat
6. Anita W/o Subhash Sonawane
7. Subhash S/o Shravan Sonawane ...Applicants

VERSUS

1. The State Of Maharashtra
2. Vishakha W/o Pritam Awsarmal ...Respondents

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Mr. R. P. Mote, Advocate for Applicant

Mr. S. V. Hange, APP for Respondents

Mr. S. S. Jangada, Advocate for Respondent No. 2

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

DATE : FEBRUARY 05, 2024

PER COURT :

1. By resorting to Section 482 of Code of Criminal Procedure, Applicants are seeking quashment of Crime No. 654 of 2020 registered with Nanal Peth Police Station, Parbhani for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and Regular Criminal Case No. 210/2021 pending before 5th JMFC, Parbhani.

2. We have heard both sides finally.

3. After we express our disinclination to grant any relief to the applicant No. 1, who is mother-in-law of the respondent No. 2, on merits, her advocate seeks leave to withdraw the application to her extent.

4. Husband is not before us and is not seeking quashment of the crime.

5. The allegations in sum and substance are to the effect that the couple solemnized the marriage on 13.08.2017 and since thereafter the Respondent No. 2 started cohabiting with the husband in the matrimonial home. For first month she was maintained properly. Thereafter, the husband started alleging that he was not offered appropriate dowry. Even he started disliking her and assaulting her under the influence of liquor. It is alleged that rest of the applicants instigated him. Resorting to which, she was subjected to physical and mental illtreatment and was driven out of house in March 2018 when she was pregnant. When she subsequently delivered a boy, the husband even refused to acknowledge his fatherhood. A grievance was made to the Women Grievance Cell on 05.03.2020 and subsequently

FIR was lodged on 02.11.2020.

6. Learned Advocate for the applicants submits that the allegations against the applicants are vague and omnibus. The couple had led matrimonial life barely for about 6 to 7 months. The FIR has been lodged belatedly. Attempt has been made to rope in many relatives of the husband. He would point out the remoteness of the relationship. He would submit that it would be abuse of process of law if applicants, on the basis of these omnibus allegations, are made to face the prosecution.

7. Learned APP and learned advocate for respondent No. 2 strongly oppose the application. They would point out that all the applicants are residents of the same village. It is unlikely that they would not have visited the matrimonial home. At this juncture, the statement of the informant and her relations giving particulars about overt-acts attributable to each of them cannot be questioned. It is not a case of false implication.

8. Having heard both sides and having gone

through the papers/charge-sheet it transpires that admittedly, respondent No. 2 cohabited with the husband in the matrimonial home for about 6 to 7 months. Since after she got pregnant and was driven out of matrimonial home in March 2018, even accepting the allegations at their face value, there was no resumption of cohabitation.

9. Though it is a matter of record that even the rest of the applicants are residents of the same village, they are not near relatives. Applicant No. 1 is the grand-mother of the husband, applicant No. 3 is the sister-in-law, applicant No. 4 is maternal father-in-law i.e., maternal uncle of the husband, applicant No. 5 is another maternal uncle of the husband, applicant no. 6 is the maternal aunt of the husband and applicant No. 7 is her husband. As is being pointed out even, the informant does not know the exact names of some of these applicants whom she has incorrectly described in the FIR. We are just pointing out this fact to ascertain the probability aspect.

10. Accepting the allegations in the FIR and the statements of witnesses recorded under Section 161 of

the Code of Criminal Procedure at their face value, though certain allegations can expressly be attributed to the husband and to some extent even to the mother-in-law i.e., applicant No. 2, other applicants have been merely named in the FIR. The allegations against them are of exhortation. There is no specific allegation against them in subjecting the respondent No. 2 to cruelty, physical or mental.

11. All the aforementioned aspects, coupled with the quality of material collected during the course of investigation, in our considered view, allowing prosecution of applicant Nos. 3 to 7, of which applicant No. 4 is no more, would be a sheer abuse of process of law as is contemplated in the matter of *State of Haryana and Ors Vs. Bhajan Lal and Ors, 1992 AIR 604*. There appears to be a case of implication of as many as relatives of the husband as possible as observed in the matters of;

- (1) Kahkashan Kausar alias Sonam and others Vs. State of Bihar; (2002) 6 SCC 599,
- (2) Preeti Gupta and Anr. V/s. State of Jharkhand and Anr. [(2010) 7 Supreme Court Cases 667],
- (3) Geeta Mahrotra & Anr V/s. State of U.P. & Anr. [2013 (AIR) (SC) 181]

12. Application is partly allowed. FIR bearing Crime No. 654/2020 registered with Nanal Peth Police Station, Dist. Parbhani for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code and Regular Criminal Case No. 210/2021 pending before 5th JMFC, Parbhani are quashed and set aside to the extent of applicant Nos. 2, 3 & 5 to 7 i.e., Bhimai @ Bhimabai W/o Shripati Shirsat, Kanchan D/o Gautam Awsarmal, Dadasaheb Shripati Shirsat, Anita W/o Subhash Sonawane, Subhash S/o Shravan Sonawane.

13. Application to the extent of applicant No. 4 – Pradeep S/o Shripati Shirsat is disposed of being dead.

14. Application to the extent of applicant No. 1 – Sunanda W/o Gautam Awsarmal is rejected as withdrawn.

(R. M. JOSHI, J)

(MANGESH S. PATIL, J)

Malani