



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO. 3583 OF 2022**

1. Eknath s/o Pandharinath Budhwant, (Father in law)
Age 73 years, Occu. Pensioner
2. Sau Kamal w/o Eknath Budhwant (Mother in law)
Age 67 years, Occ. Household
Both r/o. Nandur Vihire,
Tq. Shevgaon District Ahmednagar.
3. Sau Swati w/o Sudhir Jaybhaye {Sister in law}
Age 35 years, Occu. Household
R/o. N-7, CIDCO, Aurangabad,
Taluka and District Aurangabad. ..Applicants
(Orig. Accused Nos.2 to 4)

Versus

1. The State of Maharashtra
Through Police Station Pundliknagar,
Aurangabad, Tq. and Dist. Aurangabad
2. Sau Pooja w/o Aditya Budhwant
Age 25 years, Occu. Service
R/o. Plot No.1, Sector N-1/F, N-4,
CIDCO, Pundliknagar, Aurangabad,
Taluka and District Aurangabad.
Cell NO.9146446566 ..Respondents
(R.No.2 Orig. Complainant)

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Mr. Ramesh Ramdas Imale, Advocate for Applicants.

Mr. S. A. Gaikwad, APP for Respondent-State.

Ms. Bhagyashree S. Kamble, Advocate for Respondent No.2
(Appointed).

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**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**

DATED : 10th OCTOBER, 2024.

P.C.

1. The present application has been filed by original accused nos.2 to 4 initially for quashing FIR vide Crime No.192/2022 registered with Pundliknagar Police Station, Aurangabad for offences punishable under Sections 498-A, 377, 324, 323, 504, 506 r/w 34 of the Indian Penal Code and later on by way of amendment

for quashing charge-sheet/proceeding in RCC No.698/2023, which is now pending before learned 5th Judicial Magistrate First Class at Aurangabad.

2. Heard Mr. Imale, learned Advocate for the applicants, Mr. Gaikwad, learned APP for respondent-State and Ms. Kamble, learned Advocate appointed to represent respondent no.2.

3. The applicants are father-in-law, mother-in-law and sister-in-law respectively of respondent no.2. It can be seen from the contents of the FIR that after marriage between respondent no.2 and original accused no.1 on 01.02.2019, they were only the persons who were residing at Pune, as the husband was employed in Pune. She has stated that initially there used to be quarrels between husband and wife on trifle ground due to addiction of husband to liquor and thereafter, after about a year she has made allegations as against accused no.1 of harassing her by alleging that he had affair with a lady, then she says that once when applicant nos.1 and 2 had gone to Pune at that time applicant no.1 had abused her. According to her, all the applicants were instigating her husband, then in turn husband used to harass her. However, she has not given the dates or period for which applicants were at Pune. She has reiterated fact that applicants were residing at Nandurvihire, Nimbe Nandur, Tal. Shevgaon, Dist. Ahmednagar. Further allegations in respect of incident alleged to have taken place on 04.05.2021, 05.08.2021 are concerned, they were mainly against husband and that can be considered as omnibus.

4. The statements of witnesses who are mainly the relatives of respondent no.2 would also show that allegations are against husband and those allegations which have been made against

applicants cannot be considered within definition of Section 498-A Explanation A or B in respect of 'cruelty'.

5. This Court as well as Hon'ble Supreme Court of India time and again has deprecated the practice of including all the relatives in such complaints/FIR under Section 498-A of the Indian Penal Code.

6. In view of the fact that ingredients of offence under Sections 498-A, 377, 324, 323, 504, 506 r/w 34 of the Indian Penal Code are not made out against applicants, we take this to be a fit case where we can exercise our inherent powers under Section 482 of the Criminal Procedure Code for quashing FIR as well as charge-sheet. Hence, we proceed to pass following order:

ORDER

- a. Criminal Application is allowed.
- b. The proceeding in RCC No.698/2023 pending before the learned 5th Judicial Magistrate First Class at Aurangabad arising out of FIR vide Crime No.192/2022 registered with Pundlik Nagar Police Station, Aurangabad for offences punishable under Sections 498-A, 377, 324, 323, 504, 506 r/w 34 stands quashed and set aside as against original accused nos.2 to 4 i.e. applicants.
- c. Criminal Application is disposed of.
- d. Fees of learned Advocate appointed to represent respondent no.2 is quantified at Rs.5000/- to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE