



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

CRIMINAL APPLICATION NO. 3578 OF 2022

1. Dr. Kanchan W/o. Kailas Dhule,
age 41 years, Occ. Medical MBBS,
DCS (Pediatrician), R/o Near Pivali
Girni, Ambedkar Nagar, Nanded,
Tq. & Dist. Nanded.
2. Kavita w/o Dhamaraj Borade,
age 38 yrs, Occ. Dentist,
R/o A-102, BKS Galaxy, Section 35-F,
Kharghar, Navi Mumbai 410 210.
3. Dhamaraj s/o Madhukar Borade,
age 42 yrs, Occ. Private service,
as DGM, Medical service,
Glenmark Pharmaceuticals Ltd.,
R/o A-102, BKS Galaxy, Sector 35-F,
Kharghar, Navi Mumbai 410 210.
4. Kranti w/o. Deepak Thorat,
age 46 years, occ. Household,
R/o. Flat no.801, Sector 5-D,
Kharghar, Navi Mumbai 410 210.
5. Deepak s/o Ashok Thorat,
age 38 yrs, Occ. Private Service,
R/o. Flat No.801, Sector 35-D,
Navi Mumbai 410 210.
6. Kailas s/o Vitthalrao Dhule,
age 44 years, Occ. Radiologist,
R/o Near Pivali Girani, Ambedkar Nagar,
Nanded, Tq. & Dist. Nanded.
7. Nandabai @ Sunandabai w/o Prabhakar Wadhawe,
age 55 years, Occ. Household,
R/o Umerkhed, Tq. Umerkhed,
District Yavatmal.

8. Yashodharabai @ Chabhutai w/o Sahebrao Bhalerao,
age 60 years, Occ Pensioner,
R/o Dharmabad, Yashodeep Nivas,
Rasika Nagar, Dharmabad,
District Nanded. Applicants.

Versus

1. The State of Maharashtra,
Through Investigation Officer,
Bhagyanagar Police Station,
Nanded, District Nanded.
2. Sadhana Kunal Pandit,
age 28 years, Occ. Household,
R/o Palinagar, Taroda (Kh),
Nanded, District Nanded. Respondents.

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Advocate for Applicants : Mr. S.S. Gangakhedkar
APP for Respondents: Mr. A.V. Lavte
Advocate for Respondent no.2 : Mr. G.G. Kadam

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

Dated : September 04, 2024.

ORDER :- (Per S.G. Chapalgaonkar, J.)

1. The applicants seeks to quash the FIR in crime no.328 of 2022 dated 20.09.2022 registered at Bhagyanagar Police Station, Nanded for the offence punishable under sections 498-A, 313, 323, 504, 506 r/w 34 of the Indian Penal Code to the extent of applicants.

2. Since during pendency of present application, charge-sheet has been filed, applicants have employed the amended prayer to quash and set aside the charge-sheet as

well as the RCC No.463 of 2023 pending before the Judicial Magistrate First Class, at Nanded.

3. Learned advocate appearing for the applicants, on instructions, seeks permission to withdraw the application to the extent of applicant nos.1 to 4 and liberty to advance submissions only for applicant nos.5 to 8. Consequently, the application stands **dismissed as withdrawn** to the extent applicant nos.1- Dr. Kanchan W/o. Kailas Dhule, 2. Kavita w/o Dhamaraj Borade, 3. Dhamaraj s/o Madhukar Borade, and 4. Kranti w/o. Deepak Thorat only.

4. Respondent No.2 lodged FIR alleging that on 2.11.2020 she married with accused no.1-Kunal Govindrao Pandit. Father of Respondent No.2 gifted Rs.25,00,000/-, gold ornaments and electronic equipments etc. at the marriage. After marriage, she was treated well for 2 to 3 months, however, thereafter, accused started physical and mental harassment under the pretext that she is not lucky for their family so also raised demand of Rs.25,00,000/- to purchase a flat at Pune. It is further alleged that married sisters-in-law of the informant gave her pills. Consequently, she suffered miscarriage. The informant further alleges that on 03.06.2022 her husband and mother-in-law took away cloths, gold ornaments and cash amount from her cupboard. When the informant asked her husband to return gold ornaments and cash, she was abused by the in-laws. Lastly, they driven her out of home. On the basis of such information, aforesaid crime came to be registered against in all ten accused persons. The

investigation progressed in the matter. Finally, charge-sheet has been filed against all accused persons named in the FIR.

5. Mr. Gangakhedkar, learned advocate appearing for the applicants would submit that gist of allegations in the FIR would indicate that the informant has grievance against her husband, mother-in-law and sister-in-law. He would submit that taking the allegations as it is, no offence can be made out against applicant nos.5 to 8. By inviting attention of this Court to the contents of FIR, he would submit that applicant nos.5 and 6 are husbands of sisters-in-law of the informant. Applicant nos.7 and 8 are maternal aunts of husband. They are not family members of the first informant. He would point out that so far as applicants no.5-Deepak Thorat and 6 – Kailas Dhule is concerned, it is alleged that they were present at some incident, however, there are no attributions of particular overtact to attract the offences alleged. Same is position as regards to applicant nos.7 and 8. He would therefore urge to quash the FIR as well as charge-sheet and consequential criminal proceedings against applicant nos.5 to 8.

6. Mr. A.V. Lavte, learned APP for the State and Mr. G.G. Kadam, learned advocate appearing for respondent no.2 endeavors to contend that applicant no.5 has insulted the informant. The applicant no.6-Kailas was also present when the informant was insulted. They would further submit that applicant nos.7 and 8 have instigated commission of such offences and threatened the informant.

7. We have considered the submissions. Perusal of the FIR would indicate that gist of the allegations attributes certain role against applicant nos.1 to 4 only. There are no specific attributions against applicant nos.5 to 8. General allegations are incorporated that all accused persons were responsible for mental and physical torture to the informant. However, so far as applicant nos.5 to 8 are concerned, no specific role has been attributed against them. Merely occasional presence of the applicants at the matrimonial home of the informant would not bring their act within ambit and scope of ingredients of section 498-A of the Indian Penal Code. The Hon'ble Supreme Court of India in case of *Preeti Gupta and another Vs. State of Jharkhand and another reported in (2010) 7 Supreme Court Cases 667* in paragraph nos.30 and 32 observed thus :-

“30. It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

32. It is a matter of common experience that most of these complaints under [section 498-A](#) IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.”

8. In light of the aforesaid observations, if the allegations employed in the FIR are examined vis-a-vis, ingredients of Section 498-A, it is apparent that no offence can

be made out against applicant nos.5 to 8. Pertinently, they were not family members of the informant. They are alleged to have visited occasionally at the matrimonial home of the informant. However, no attributions are made against them to attract offences under section 498-A, 313, 323, 504, 506, 34 of the Indian Penal Code. Police statements recorded during course of the investigation which are made part of the charge-sheet are also insufficient to make out any triable case as against applicant nos.5 to 8.

9. In that view of the matter, this Court is of the considered view that on the basis of general and omnibus allegations, continuance of criminal prosecution cannot be permitted as against applicant nos.5 to 8. It is now well settled that false implication by way of general and omnibus allegations made in the course of matrimonial disputes cannot be left unchecked particularly when no prima facie case is made out against the relatives. Consequently, we proceed to pass the following order.

ORDER

- i. Criminal Application is **allowed** to the extent of applicant nos.5 to 8.
- ii. The First Information Report in Crime No.328 of 2022 registered with Police Station, Bhagyanagar, Nanded as well as RCC No.463 of 2023 pending before the Judicial Magistrate First Class, Nanded for the offences punishable under sections 498-A, 313, 323, 504, 506, 34 of the Indian Penal Code is hereby quashed and set

aside as against the applicant nos.5 - Deepak s/o Ashok Thorat, 6 - Kailas s/o Vitthalrao Dhule, 7- Nandabai @ Sunandabai w/o Prabhakar Wadhawe and 8 – Yashodharabai @ Chabhutai w/o Sahebrao Bhalerao.

iii. Criminal application stands **disposed off**.

(S. G. CHAPALGAONKAR)
Judge

(SMT. VIBHA KANKANWADI)
Judge

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