



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

3 CRIMINAL APPLICATION NO.4339 OF 2024

- 1 Abdullah Zahid Khan,
 Age 29 yrs., Occ. Education/student,
 R/o G.M. Villa, Near Videocon Factory,
 Shelar Mala, Burhan Nagar,
 Ahmednagar.
- 2 Zahid Nazir Ahmed Khan,
 Age 50 yrs., Occ. Business,
 R/o G.M. Villa, Near Videocon Factory,
 Shelar Mala, Burhan Nagar,
 Ahmednagar.
- 3 Raisa w/o Zahid Khan,
 Age 49 yrs., Occ. Primary Teacher,
 R/o G.M. Villa, Near Videocon Factory,
 Shelar Mala, Burhan Nagar,
 Ahmednagar.
- 4 Umar Zahid Khan,
 Age 14 yrs., Occ. Education/student,
 R/o G.M. Villa, Near Videocon Factory,
 Shelar Mala, Burhan Nagar,
 Ahmednagar.
- 5 Mohammad Ali s/o Zahid Khan,
 Age 20 yrs., Occ. Education/student,
 R/o G.M. Villa, Near Videocon Factory,
 Shelar Mala, Burhan Nagar,
 Ahmednagar.

... Applicants

... Versus ...

- 1 The State of Maharashtra

2 Humera w/o Abdullah Khan,
Age 25 yrs., Occ. Household,
R/o C/o Akbar Husain Shaikh,
R/o Dreamland Society,
Near Bombay Hospital,
Mukund Nagar, Dist. Ahmednagar.

... **Respondents**

...

Mr. Mudassir Shaikh, Advocate h/f Mr. J.I. Shaikh, Advocate for applicants
Mrs. R.P. Gour, APP for respondent No.1

...

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

DATE : 18th NOVEMBER, 2024

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

1 Present application has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing First Information Report vide Crime No.678/2024 dated 06.09.2024 registered with Camp Police Station, Ahmednagar, Dist. Ahmednagar, for the offence punishable under Section 498(A), 323, 504, 506 read with Section 34 of the Indian Penal Code and under Section 4 of the Muslim Women (Protection of Rights on Marriage) Act.

2 It is not in dispute that respondent No.2 got married to applicant No.1 on 25.02.2023. All the applicants are residing under one roof at Burhan Nagar, Ahmednagar. Applicant No.1 is the husband, applicant Nos.2 and 3 are the parents-in-law and applicant Nos.4 and 5 are the brothers-in-law of respondent No.2.

3 Heard learned Advocate Mr. Mudassir Shaikh holding for learned Advocate Mr. J.I. Shaikh for applicants and learned APP Mrs. R.P. Gour for respondent No.1.

4 The informant alleges that she was treated properly for about two months and thereafter the husband started saying that he does not like her and only because of applicant Nos.2 and 3 he has performed marriage with her. By abusing her he used to assault her. As regards applicant Nos.2 to 5 are concerned, she says that they used to assault her and give taunting. Applicant Nos.2 and 3 also used to assault her. It is stated that applicant Nos.1 to 3 had demanded amount of Rs.30,00,000/- for starting medical shop, which the informant was supposed to bring from her parents. In order to pursue the said demand, it is said that she was mentally and physically harassed. She says that when she had failed to bring the amount, then on 16.07.2023 she was driven out of the house by all the applicants. Said

incident is seen by neighbour Mr. Musabhai, who had then separated them. She also states that thereafter on the say of his parents applicant No.1 had given triple talaq to her.

5 Learned Advocate for applicants submits that applicant No.1 has not given talaq and in fact is ready for cohabitation with respondent No.2.

6 It is to be noted that as regards incident dated 16.07.2023 there appears to be some independent witness, whose statement is yet to be recorded or it would have been recorded, as at present charge sheet is not filed, therefore, it cannot be ascertained. Further, when talaq is pronounced without reason and there are specific allegations, it may amount to cruelty as contemplated under Section 498-A of the Indian Penal Code. The investigation is at preliminary stage and, therefore, it would be premature to come to a conclusion that no case is made out against applicants. Therefore, at this stage, we are of the opinion that case is not made out for exercise of powers under Section 482 of the Code of Criminal Procedure. Hence, application stands rejected.

(ROHIT W. JOSHI, J.)

(SMT. VIBHA KANKANWADI, J.)

agd