



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3871 OF 2022

- 1) Abdul Nabi S/o Kareem Saab Kadloor,
Age-84 years, Occu:Agriculturist,
R/o-House No.1-865,
Noor Ul Islam Compound,
MSK Mill Road, Opp. Govt.
Press Gulbarga (Kalaburagi),
Pin 585102 (Karnataka State),
(Father-in-law),
- 2) Fareeda Begum W/o Abdul Nabi Kadloor,
Age-70 years, Occu:Housewife,
R/o-House No.1-865,
Noor Ul Islam Compound,
MSK Mill Road, Opp. Govt.
Press Gulbarga (Kalaburagi),
Pin 585102 (Karnataka State),
(Mother-in-law),
- 3) Parvez S/o Abdul Nabi Kadloor,
Age-42 years, Occu:Doctor,
R/o-House No.1-865,
Noor Ul Islam Compound,
MSK Mill Road, Opp. Govt.
Press Gulbarga (Kalaburagi),
(Brother-in-law),
- 4) Md. Irfan S/o Abdul Nabi Kadloor,
Age-30 years, Occu:Engineer,
R/o-House No.1-865,
Noor Ul Islam Compound,
MSK Mill Road, Opp. Govt.
Press Gulbarga (Kalaburagi),
Pin 585102 (Karnataka State),
(Brother-in-law),

- 5) Shahajahan Sultana D/o Abdul Nabi Kadloor,
Age-44 years, Occu:Lecturer,
R/o-House No.1-865,
Noor Ul Islam Compound,
MSK Mill Road, Opp. Govt.
Press Gulbarga (Kalaburagi),
Pin 585102 (Karnataka State),
(Sister-in-law),
- 6) Shamim Sultana D/o Abdul Nabi Kadloor,
Age-34 years, Occu:Lecturer,
R/o-House No.1-865,
Noor Ul Islam Compound,
MSK Mill Road, Opp. Govt.
Press Gulbarga (Kalaburagi),
Pin 585102 (Karnataka State),
(Sister-in-law)

...APPLICANTS
(Accused Nos. 2 to 7)

VERSUS

- 1) The State of Maharashtra,
Through Rural PS Udgir,
District-Latur,
- 2) Shaikh Wafa Mariyam,
W/o Mohmmmed Arif Kadloor,
Age-26 years,
Occu:Private Employee (B.E. and MBA),
R/o-Al Ameen Nagar, Jalkot Road, Udgir,
Tq-Udgir, Dist-Latur.

...RESPONDENTS

WITH

**CRIMINAL APPLICATION NO.4296 OF 2022
IN
CRIMINAL APPLICATION NO.3871 OF 2022**

Abdul Nabi S/o Kareem Saab Kadloor

...APPLICANT

VERSUS

1) Shaikh Wafa Mariyam,
W/o Mohammed Arif Kadloor,

2) The State of Maharashtra

...RESPONDENTS

...
Mr. S.N. Lale-Yelwatkar Advocate for Applicants in
both Applications.
Mr. A.V. Lavate, A.P.P. for Respondent No.1 in both
Applications.
Mr. R.D. Thorat, Advocate for Respondent No.2 (**Appointed**).
...

**CORAM: SMT. VIBHA KANKANWADI AND
R.W. JOSHI, JJ.**

DATE : 12th NOVEMBER, 2024

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Criminal Application No.4296 of 2022 has been filed by the original applicants for production of documents which are in the form of divorce certificate, medical report etc. and it also contains various decisions of various High Courts as well as this Court and Hon'ble Supreme Court on which the applicants want to rely. There is no hurdle in allowing the said Application.

2. Criminal Application No.3871 of 2022 has been filed for quashing the First Information Report (for short "the FIR") vide Crime No.521 of 2022 registered with Udgir Rural Police Station,

District-Latur, for the offence punishable under Sections 498-A, 504, 506 read with Section 34 of the Indian Penal Code.

3. It is not in dispute that respondent No.2 got married to one Mohmmmed Arif Kadloor, who is an Advocate practicing at Gulbarga (Kalaburagi) in Karnataka. Their marriage had taken place on 2nd February 2020. Applicant No.1 is father-in-law, applicant No.2 is mother-in-law, applicant Nos.3, 4 are the brothers-in-law and applicant Nos.5, 6 are the sisters-in-law of respondent No.2. The husband of respondent No.2 is not before this Court in the application.

4. Heard learned Advocate Mr. S.N. Lale-Yelwatkar for applicants, learned APP Mr. A.V. Lavate, for respondent No.1. Though respondent No.2 was duly served, she failed to appear through Advocate and therefore, learned Advocate Mr. R.D. Thorat was appointed to represent the cause of respondent No.2. He has also been heard.

5. Perusal of the FIR would show that respondent No.2 has stated that she was treated properly for about a month after the marriage. After one month, she states that as the husband could

not carry on practice due to lock down in Covid-19 pandemic situation, she was asked to bring an amount of Rs.20,00,000/- from her parents. She says that the accused persons started to pick up mistakes on her part and on that count she was kept starved, thereby causing mental and physical harassment to her. When she told that her father is not having amount, then at that time accused persons including her husband started saying that she should bring the amount if she wants to stay with them. According to her, she was driven out of the house on 14th November 2020 and thereupon she came to Udgir and told the incidences to her parents. Then her parents and friends of her father took her to matrimonial home on 20th January 2021 and requested the accused persons to allow her to cohabit, but at that time all the accused insulted them by saying that unless she brings amount of Rs.20,00,000/-, she will not be allowed to cohabit. She then says that she came to know later on that her husband had already performed one marriage, which fact was not disclosed to her.

6. Important point to be noted is that the documents have been produced to show that the husband had filed O.S. No. 22 of 2022 in the Family Court at Kalaburagi, the suit for restitution of

conjugal rights. That was filed on 14th June 2022. It appears that respondent No.2 failed to remain present though served and such orders are there on the order-sheet, adjourning the matter up-to 2nd December 2022. The RPAD containing the notice appears to have been served on her around 12th September 2022 and then the FIR in the present case has been lodged on 16th November 2022. The delay in lodging the FIR when she says that accused persons had refused to allow her to cohabit when she along with her relatives had gone to the matrimonial home on 20th January 2021, has not been explained.

7. Even independently, if we consider the contents of the FIR then specific role is not attributed to the present applicants. If we consider the fact that the marriage had taken place on 2nd February 2020, then she says that she was allegedly driven out of the house on 14th November 2020, her stay at Kalaburagi would be for nine months. The reason for demand of amount of Rs.20,00,000/- is stated to be that the husband's practice could not yield the income due to lock down. The lock down was declared on 22nd March 2020. If we consider the occupation that has been given by the applicants, then applicant No.1 is an agriculturist, applicant Nos. 3 and 4 are the doctor and engineer

respectively and both sisters-in-law are lecturers. Therefore, it was not the situation that the entire family was depending on the income of the husband of respondent No.2. The alleged acts of harassment are stated to be as picking up trifling mistakes in the household work, keeping her starved. As regards picking up mistakes in trifling matters, it can be considered as a regular wear and tear in the matrimonial life which will not amount to cruelty that has been explained in explanation-(a) and/or (b) to Section 498-A of the Indian Penal Code. Another fact to be noted is that all the accused persons could not have demanded the amount in chorus. Therefore, there appears to be exaggeration.

8. Learned Advocate for the applicants also points out that respondent No.2 had filed Criminal Misc. Application No.13 of 2022 before the learned Judicial Magistrate First Class, Udgir under the Protection of Women from Domestic Violence Act and when the notices were issued to present applicants, they had preferred Criminal Application No.2779 of 2022, which has been decided by the learned Single Bench of this Court on 13th January 2023 and by the said order the said proceedings have been quashed against the present applicants.

9. Therefore, taking into consideration all these aspects, case is made out for exercising of powers under Section 482 of the Code of Criminal Procedure. Hence, we pass following order:-

ORDER

(I) Criminal Application No.4296 of 2022 stands allowed and disposed of.

(II) Criminal Application No.3871 of 2022 stands allowed.

(III) The First Information Report vide Crime No.521 of 2022 registered with Udgir Rural Police Station, District-Latur, for the offence punishable under Sections 498-A, 504, 506 read with Section 34 of the Indian Penal Code, stands quashed and set aside as against applicant Nos. 1 to 6 i.e.

- 1) Abdul Nabi S/o Kareem Saab Kadloor,
- 2) Fareeda Begum W/o Abdul Nabi Kadloor,
- 3) Parvez S/o Abdul Nabi Kadloor, 4) Md. Irfan S/o Abdul Nabi Kadloor, 5) Shahajahan Sultana D/o

Abdul Nabi Kadloor and 6) Shamim Sultana D/o
Abdul Nabi Kadloor.

(IV) Fees of learned Advocate Mr. R.D. Thorat,
who is appointed to represent the cause of
respondent No.2 is quantified at Rs.5,000/-, to be
paid by the High Court Legal Services Sub
Committee, Aurangabad.

[R.W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/NOV24