



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

CRIMINAL APPLICATION NO. 3960 OF 2022

1. Vyankatesh Vithalrao Gaikawad (Husband)
Age: 33 years, Occ. Agriculture,
 2. Savita Vithalrao Gaikawad, (Mother-in-Law)
Age: 65 years, Occ.: Household / Social service,
Both R/o: Safalya Sadan, Safalya Nagar,
Near Balaji Mandir, Loha,
Tal. Loha, Dist. Nanded.
 3. Vishakha Chetan Hadolikor (Sister-in-law)
Age: 36 years, Occ.: Hose wife,
R/o: Muktai Residency, A- 502,
Tilak Nagar, Chembur, Mumbai.
 4. Vijay Kishan Telang, (Distant Brother-in-law)
Age: 42 years, Occ.: Service,
 5. Balu Kishan Telang, (Distant Brother-in-law)
Age: 36 years, Occ.: Service,
- Both 4 and 5 R/o: Yadav Nagar, Loha,
Tal. Loha, Dist. Nanded. ..Applicants

Versus

1. The State of Maharashtra
Through Police Inspector,
Majalgaon City Police Station,
Majalgaon, Dist. Beed.
2. Ratnapriya Baliram Kamble, (Wife/Informant)
Age: 23 years, Occ: Household,
R/O: Shivaji Nagar, Majalgaon,
Tal. Majalgaon, Dist. Beed. ..Respondents

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Mr. Shomitkumar Vyanktrao Salunke h/f Mr. Y. L. Bidve, Advocate
for Applicants.

Mr. G. A. Kulkarni, APP for Respondent No.1.

Mr. D. R. Jethliya, Advocate for Respondent No.2.

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**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.
DATED : 04th SEPTEMBER, 2024.**

P.C.

1. The present application has been filed under Section 482 of the Criminal Procedure Code for quashing FIR vide Crime No.261/2022 registered with Majalgaon City Police Station, Dist. Beed on 14.09.2022 by respondent no.2 and charge-sheet bearing RCC No.222/2022 pending before learned Judicial Magistrate First Class, Majalgaon, Dist. Beed for offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code.

2. It is not disputed that respondent no.2 got married with applicant no.1 on 22.05.2022. The applicant no.2 is mother-in-law, applicant no.3 is married sister-in-law and applicant nos.4 and 5 are distant brother-in-laws of respondent no.2.

3. Heard the learned Advocate for the applicants, learned APP for respondent no.1 and learned Advocate for respondent no.2. In order to cut short, it can be stated that they all have made submissions supporting their respective contentions.

4. Perusal of FIR and the statements of witnesses, who are relatives of respondent no.2 would show that there are no specific and overtact alleged against applicant nos.3, 4 and 5. The FIR does not show as to why married sister-in-law and cousin brothers of husband were residing in the matrimonial home of respondent no.2.

5. It has been alleged in the FIR that since the marriage, all the accused persons were insulting the informant by saying that her character is not good, her family is not good, but then she says that she was sustaining the ill-treatment, but when it went beyond her

sufferance, she disclosed it to her parents and then parents had given advice to accused persons and requested that proper treatment should be given to the informant. According to the informant, thereafter also there was no difference in behaviour of the applicants. Thus in this part of the FIR the allegations are in respect of insult by doubting the character. However, it is to be noted that it has no background at all. All of a sudden why such insult would have been has not been tried to be gathered, even by the parents, as it is not reflecting in their statements. Interestingly, the statement of witnesses also contend that there were harassment on the account that dowry has not been given, proper honour was not given in the marriage and whatever articles have been given are of not good quality. No such allegation made in the FIR.

6. The second part of the FIR relates to the incident alleged to have been taken place on 11.08.2022 and it is stated that around 12.30 pm all the accused had assaulted the informant, gave her threat to kill for which she lodged report with Loha Police Station. She was kept starved and harassed mentally as well as physically and then driven out of the house and since then, she is residing with her parents. The copy of N.C. complaint is annexed in the charge-sheet. Perusal of that document would show that she has not made any allegation in respect of any incident prior to 11.08.2022. She says that on 11.08.2022, she had given a phone call to her brother around 07.00 am and told him that since yesterday her husband and mother-in-law were quarreling with her without any ground and, therefore, she should be taken to her mother, thereby the brother was called. Around 12.30 pm her brother Ketan and cousin Vishal came to take her. She packed her baggages and at that time applicant nos.1 to 3 and 5 restrained her from going alone with brother. At that time, she told those

applicants that she has no desire to stay with them, as they are harassing her daily and she wants to go with her brother. Thereafter, the applicants started abusing her and then assaulted her. Then threat was given that if she goes then dire consequences will follow. Thus perusal of said N.C. complaint lodged by her is totally against the contentions in the FIR. Even on that day also she could have lodged FIR for offence punishable under Section 498-A of the Indian Penal Code. The learned Advocate for respondent no.2 has tried to contend that N.C. is not happily worded, but that does not affect the stand taken by and the facts given in the FIR. Perusal of the statement of the brother Ketan would show that he is totally silent about his visit to the matrimonial home of the sister and what happened there as stated in the N.C. complaint. Here we are not considering those statements for contradiction, but note of it is taken only to the extent of difference in facts tried to be narrated by the parties.

7. We would like to rely on the decision of the learned Single Bench of this Court in case of ***Ravindra Pyarelal Bidlan And Others vs State Of Maharashtra***¹ and decision of Supreme Court of India in case of ***Manju Ram Kalita Vs. State of Assam***², wherein following are observations:

“In the instant case, as the allegation of demand of dowry is not there, we are not concerned with clause (b) of the explanation. The elements of cruelty so far as clause (a) is concerned, have been classified as follows :

(i) any ‘wilful’ conduct which is of such a nature as is likely to drive the woman to commit suicide; or

(ii) any ‘wilful’ conduct which is likely to cause grave injury to the woman; or

(iii) any ‘wilful’ act which is likely to cause danger to life, limb or health, whether physical or mental of the woman.”

¹ 1993 (1) Mh.L.J 658.

² (2009) 13 SCC 330.

and in case of ***Girdhar Shankar Tawade Vs. State of Maharashtra***³, wherein following are the observations:

“The basic purport of the statutory provision is to avoid ‘cruelty’ which stands defined by attributing a specific statutory meaning attached thereto as noticed herein before. Two specific instances have been taken note of in order to ascribe a meaning to the word ‘cruelty’ as is expressed by the legislatures : Whereas explanation (a) involves three specific situations viz., (i) to drive the woman to commit suicide or (ii) to cause grave injury or (iii) danger to life, limb or health, both mental and physical, and thus involving a physical torture or atrocity, in explanation (b) there is absence of physical injury but the legislature thought it fit to include only coercive harassment which obviously as the legislative intent expressed is equally heinous to match the physical injury : whereas one is patent, the other one is latent but equally serious in terms of the provisions of the statute since the same would also embrace the attributes of ‘cruelty’ in terms of Section 498-A.”

8. Thus taking into consideration the contents of the FIR and the law laid down in the above authorities, we are of the opinion that offence is not made out even as against applicant nos.1 and 2. The case is squarely covered in the parameters laid down in case of ***State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors.***⁴ and, therefore, this is a fit case where we should exercise our inherent powers under Section 482 of the Criminal Procedure Code. Hence, following order:

ORDER

- a. Criminal Application is allowed.
- b. The FIR vide Crime No.261/2022 dated 14.09.2022 registered with Majalgaon City Police Station, Dist. Beed and the charge-sheet i.e. proceeding in RCC No.222/2022 pending before learned Judicial Magistrate First Class, Majalgaon, Dist. Beed for offence

³ 2002 (5) SCC 177.

⁴ AIR 1992 SC 604.

punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code stand quashed and set aside as against applicant nos.1 to 5.

c. Criminal Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

Devendra/September-2024