



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

CRIMINAL APPLICATION NO. 4054 OF 2022

1. Rahul S/o Rajendra Gosavi,
Age – 30 years, Occu. : Nil,
R/o Ram Mandir Galli, Sonai,
Tq. Newasa, Dist. Ahmednagar.
2. Mangal wd/o Rajendra Gosavi,
Age – 46 years, Occu. : Service as
Peon presently working with
A.D.C.C. Bank, Br. Ghodegaon,
Tq. Newasa, Dist. Ahmednagar,
R/o Ram Mandir Galli, Sonai,
Tq. Newasa, Dist. Ahmednagar.
3. Priya d/o Rajendra Gosavi,
Age - 25 Years, Occu. : Education,
R/o 1st Floor, Renuka Niwas,
Mokate Nagar, Left Bhusari
Colony, Kothrud Dept.,
Pune – 38.
4. Lahu S/o Kisan Gosavi,
Age - 70 Years, Occu. : Agriculture,
R/o Dule Chandgaon,
Tq. Pathardi, Dist. Ahmednagar.
5. Sharad s/o Lahu Gosavi,
Age – 42 years, Occu. : Agriculture,
R/o Dule Chandgaon,
Tq. Pathardi, Dist. Ahmednagar.
6. Smt. Vandana w/o Sharad Gosavi,
Age – 36 years, Occu. : Household,
R/o Dule Chandgaon,
Tq. Pathardi, Dist. Ahmednagar.

7. Harish s/o Sharad Gosavi,
Age – 21 years, Occu. : Education,
R/o Dule Chandgaon,
Tq. Pathardi, Dist. Ahmednagar.
8. Smt. Mandodhari w/o Lahu Gosavi,
Age – 61 years, Occu. : Household,
R/o Dule Chandgaon,
Tq. Pathardi, Dist. Ahmednagar.
9. Prabhakar s/o Jagannath Giri,
Age – 35 years, Occu. : Agriculture,
R/o Pimpri Shahali,
Tq. Newasa, Dist. Ahmednagar. .. Applicants

Versus

1. The State of Maharashtra,
Through Police Inspector,
Shivaji nagar Police Station,
Beed, Tq. & Dist. Beed.
2. Smt. Renuka w/o Rahul Gosavi,
Age : 22 years, Occu. : Household,
R/o C/o Vajinath Bhagwan Puri,
Ankush Nagar, Wagh Wada, Beed,
Tq. and Dist. Beed. .. Respondents

Shri A. G. Ambetkar, Advocate for the Applicants.

Ms. S. S. Joshi, A.P.P. for the Respondent No. 1.

Shri A. V. Thombre, Advocate for the Respondent No. 2 – absent.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.**

DATE : 23 JANUARY, 2024.

FINAL ORDER (Per Shailesh P. Brahme, J.) :-

. Heard the litigating sides finally at the admission stage.

2. After hearing the learned counsel for the applicants for some time, when we expressed our disinclination to grant relief to the applicant Nos. 1, 2 and 4, the learned counsel for the applicants sought permission to withdraw the application to the extent of applicant Nos. 1, 2 and 4. The criminal application stands withdrawn to the extent of applicant Nos. 1, 2 and 4.

3. The applicants are invoking jurisdiction under Section 482 of the Code of Criminal Procedure (hereinafter referred as to the “Cr. P. C.” for the sake of brevity and convenience) for challenging First Information Report bearing Cr. No. 0411/2022 registered with Shivaji Nagar Police Station Beed, Charge Sheet No. 224/2022 and R.C.C. No. 765 of 2022 pending before the Judicial Magistrate First Class, Beed. Impugned first information report was registered at the instance of the respondent No. 2 against the applicants for the offences punishable U/Sec. 498-A, 323, 504, 506 r/w Section 34 of the Indian Penal Code.

4. The applicant No. 1 is husband of the respondent No. 2. The applicant No. 2 is the mother-in-law, the applicant No. 3 is sister-in-law and the applicant No. 4 is the grandfather-in-law of the respondent No. 2. The applicant Nos. 5 and 6 are uncle and aunt of the applicant No. 1. The applicant No. 7 is son of the applicant No. 5 and cousin of the applicant No. 1. The applicant No. 8 is grandmother-in-law of the respondent No. 2 and the applicant No. 9 is maternal uncle of the applicant No. 1.

5. Marriage between the applicant No. 1 and the respondent

No. 2 was solemnized on 19.12.2021. It is alleged that the respondent No. 2 was not permitted to attend the college from February 2022. Her character was being suspected by the applicants. She was being demanded Rs. 5,00,000/- for setting up business. She was being persistently abused and beaten by the applicants. As she was unable to satisfy the demands, she was threatened and driven from the matrimonial home.

6. The learned counsel for the applicants submits that the allegations in the first information report are omnibus and patently false. No overt acts as such have been specifically attributed to each of the applicant. The applicant No. 3 was the resident of Pune at the relevant time. The applicant No. 4 to 8 are residents of Dule Chandgaon, Tq. Pathardi, Dist. Ahmednagar. The applicant No. 9 is resident of Pimpri Shahali, Tq. Newasa. The applicant No. 4 to 9 had no occasion to come to Sonai and cause any illtreatment to the respondent No. 2. The allegations are concocted.

7. The learned counsel for the applicants would further submit that the allegations are inherently improbable. The applicant No. 1 has already filed petition for restitution of conjugal rights against the respondent No. 2. He would submit that the statements recorded during the course of investigation also do not attribute any incriminating role. He would submit that the impugned FIR and charge sheet are abuse of process of law and liable to be quashed.

8. The learned Assistant Public Prosecutor for the respondent No. 1 vehemently opposes the submissions of the applicants. She draws our attention to the first information report and the statements of witnesses Renuka, Avinash, Ajinath, Vimal and Deelip to show the involvement of the applicants. She would submit that there is adequate material against the applicants and a full fledged trial is required to establish their guilt. According to her this is not a fit case to exercise jurisdiction U/Sec. 482 of the Cr. P. C.

9. We have considered rival submissions of the parties. We have gone through the papers of investigation and the proceedings pending between the parties. The marriage was solemnized on 19.12.2021. Informant was driven out from the matrimonial home from 22.02.2022. She cohabited with the applicants for two months at Sonai. During this tenure applicant No. 3/Priya who is sister-in-law was taking education at Pune. The applicant Nos. 3 to 8 were residing at Dule Chandgaon. The applicant No. 9 was residing at Pimpri Shahali. The possibility of having tortured the informant by these persons is very remote.

10. The respondent No. 2 filed first information report on 27.09.2022, after leaving the matrimonial home on 22.02.2022. There is time span of seven months. Before lodging complaint, the applicant No. 1 instituted proceedings for restitution of conjugal rights against the respondent No. 2 on 22.06.2022 bearing H.M.P. No. 821 of 2022. The respondent No. 2 filed her written statement on 22.08.2022, which is placed on record. The

written statement does not corroborate the allegations made in first information report. Considering the written statement it can be inferred that there is tendency of the informant to implicate the relatives of her husband who are even not residing at Sonai by making omnibus allegations.

11. The statements of the witnesses produced on record do not specify that there was any occasion for the outsider applicants to visit the matrimonial home and participate in the illtreatment to the informant. We are guided by the principles laid down by the Supreme Court in the matter of Geeta Mehotra and others Vs. State of UP and others reported in *(2012) 10 SCC 741*. Para No. 24 of the said judgment reads as follows :

“24. However, we deem it appropriate to add by way of caution that we may not be misunderstood so as to infer that even if there are allegation of overt act indicating the complicity of the members of the family named in the FIR in a given case, cognizance would be unjustified but what we wish to emphasize by highlighting is that, if the FIR as it stands does not disclose specific allegation against accused more so against the co-accused specially in a matter arising out of matrimonial bickering, it would be clear abuse of the legal and judicial process to mechanically send the named accused in the FIR to undergo the trial unless of course the FIR discloses specific allegations which would persuade the court to take cognisance of the offence alleged against the relatives of the main accused who are prima facie not found to have indulged in physical and mental torture of the complainant-wife. It is the well settled principle laid down in cases too numerous to mention, that if the FIR did not disclose the commission of an offence, the court would be

justified in quashing the proceedings preventing the abuse of the process of law. Simultaneously, the courts are expected to adopt a cautious approach in matters of quashing specially in cases of matrimonial dispute whether the FIR in fact discloses commission of an offence by the relatives of the principal accused or the FIR prima facie discloses a case of over-implication by involving the entire family of the accused at the instance of the complainant, who is out to settle her scores arising out of the teething problem or skirmish of domestic bickering while settling down in her new matrimonial surrounding.”

12. We find merit in the submissions of the learned counsel for the applicants that the allegations against the remaining applicants are improbable. There reflects tendency of informant to implicate all the family members to settle her score arising out of matrimonial bickering. We are of the considered view that no offence can be made out against the remaining applicants. It would be an abuse of process of law to compel them to face prosecution.

13. The learned A. P. P. has vehemently referred to the statements of witnesses Avinash, Ajinath, Vimal and Deelip. Avinash is brother of the respondent No. 2. Ajinath is the cousin grandfather of the respondent No. 2. Vimal is the grandmother of the respondent No. 2. Deelip is maternal uncle of the respondent No. 2. Their statements are in the line of contents of the first information report. They do not have direct account of the instances and the allegations. All the shortcomings in the first information report are attributable to their statements also.

We are of the considered view that the material on record is not sufficient to attribute any incriminating role to the applicant Nos. 3 and 5 to 9. We therefore pass following order.

O R D E R

A. Criminal Application No. 4054 of 2022 is partly allowed to the extent of applicant Nos. 3 and 5 to 9.

B. The first information report bearing Cr. No. 0411/2022 registered with Shivaji Nagar Police Station Beed for offence punishable U/Sec. 498-A, 323, 504, 506 r/w Section 34 of the Indian Penal Code, Charge Sheet No. 224/2022 and R.C.C. No. 765 of 2022 pending before the Judicial Magistrate First Class, Beed are quashed and set aside to the extent of applicant Nos. 3 and 5 to 9.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb/Jan. 24