



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4223 OF 2022

1. Pradeep Namdeo Jadhav,
age 26 years, Occ. Agri.
2. Namdeo s/o Hari Jadhav,
age 45 years, Occ. Agri.
3. Yashoda w/o. Namdeo Jadhav,
age 42 years, Occ. Agri.
4. Gajanan s/o Namdeo Jadhav,
age 29 years, Occ. Agri.
5. Radha w/o Gajanan Jadhav,
age 27 years, Occ. Agri.
Applicant nos.1 to 5 are R/o Vadiramasgaon,
Tq. Ghansawangi, District Jalna.
6. Jyoti w/o Babasaheb Dhawale,
age 27 years, Occ. Agri,
R/o Sangameshwar Gavhan,
Tq. Bhokardan, District. Jalna.

Applicants.
(Orig accused 1 to 6)

Versus

1. The State of Maharashtra,
through the Investigating Officer,
Gondi Police Station,
Tq. Ghansawangi, District Jalna.
2. Pooja Pradeep Jadhav,
age 20 years, Occ. Agri,
R/o Wadiramasgaon, Tq. Ghansawangi,
District Jalna
At present r/o Devhiwara, Tq. Ghansawangi,
District Jalna.

Respondents.
(Resp No.2 orig accused.)

...
Advocate for Applicants : Mr. R M Deshmukh
APP for Respondents: Mr. A R Kale
Advocate for Respondent no.2 : Mr. R D Thorat
...

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

Dated : 1st October, 2024.

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

1. The applicants have approached this Court for quashment of the FIR in crime no.463 of 2022 dated 25.11.2022 registered with Gondi Police Station, Tq. Ghansavangi, District Jalna for the offences punishable under section 498-A, 323, 504 r/w 34 of the Indian Penal Code.

2. The Respondent no.2 lodged a report with police station Gondi alleging that on 28.5.2019 she married with applicant no.1. Since then, she started residing at matrimonial home alongwith the applicants. She was treated well for initial six months. Lateron, her husband used to drink liquor and beat her. Father-in-law, mother-in-law and brother-in-law were instigating him for such ill-treatment. The applicant no.6, who is married sister-in-law also used to instigate her ill-treatment. She informed parents about ill-treatment meted to her. After intervention by the relatives, she was treated well for some period. However, he continued ill-treatment in pursuance of Rs.50,000/-. When she refused such demand, she has been driven out of home. As such, she is residing at maternal home. In pursuance of the aforesaid report, crime no.463 of 2022 has

been registered against in all six accused persons for the aforesaid offences.

3. It appears that on 12.1.2023 this Court interacted with applicant no.1 and respondent no.2. Upon such intervention, they agreed to reconcile and lived together happily. The respondent no.2 had accordingly resumed company of her husband and she was cohabiting with him. But, later on again dispute persisted and respondent no.2 left her matrimonial home. In this background, Mr. R.M. Deshmukh, learned advocate appearing for the applicants submits that, applicants have been falsely implicated in the aforesaid crime. Previously, respondent no.2 has lodged report dated 23.9.2022 for similar allegations against the applicants. Consequently, the FIR in crime no.352 of 2022 has been registered with Ghansavangi Police Station. While such proceeding is pending, present FIR is lodged. According to him, impugned FIR cannot be entertained in view of Chapter XXIV of the Criminal Procedure Code particularly, Section 300 and Article 20(2) of the Constitution of India.

4. He would further submit that in pursuance of the FIR in Crime No.352 of 2022, RCC No.171 of 2022 has been registered. In that proceeding, evidence of respondent no.2 and her mother is recorded by the trial Court. During cross examination, they admitted that crime no.463 of 2022 has been subsequently registered for the similar allegations. Mr. Deshmukh would further submit that allegations in impugned FIR are omnibus and sans necessary particulars to bring home

the charge under section 498-A of the IPC. The conduct of respondent no.2 shows that she is bent upon to harass all the applicants. She is maliciously using police machinery and procedure established under law. He would therefore urge to quash and set aside the FIR and consequential proceedings in Crime No.463 of 2022.

5. Per contra, Mr. A.R. Kale, learned APP appearing for respondent no.1/State and Mr. R.D. Thorat, learned advocate appearing for respondent no.2 submits that there are allegations regarding ill-treatment towards respondent no.2 by all the applicants. Although, respondent no.2 had resumed company of her husband on intervention of this Court, she was not treated well and required to leave the matrimonial home. They would therefore urge that the matter be relegated to the trial without interference under inherent powers of this Court.

6. We have considered the submissions advanced by the learned advocates appearing for the respective parties. We have perused the FIR in Crime No.463 of 2022 as well as the FIR in Crime No.352 of 2022 dated 23.9.2022. Both the FIR's are registered at the instance of respondent no.2 and based on very same set of allegations. In FIR No.352 of 2022, there are three accused i.e. husband, father-in-law and mother-in-law, whereas in impugned FIR in Crime no.463 of 2022, which is registered two months later, sister-in-law and brother-in-law are also added in the array of accused persons. Allegations in both the FIR are similar. Pertinently, both the crime numbers are registered at two different police stations. In pursuance of

FIR No.352 of 2022, investigation was completed and charge-sheet was also filed. Evidence of two witnesses are recorded in that trial.

7. In this background, when we look to the allegations in the impugned FIR no.463 of 2022 registered with police station Gondi, we observe that respondent o.2 stipulates that she was treated well for initial six months. Thereafter, her husband used to beat her after consuming liquor and other applicants used to instigate his acts. In the last part of the FIR, she states that husband had later on demanded amount of Rs.50,000/- for purchase of the motorcycle and thereafter again ill-treated her and driven out of the house. The nature of allegation is omnibus, vague and without necessary particulars to bring home the ingredients of any offences. Section 498-A of the IPC requires that the women must be subjected to “*cruelty*”. The term “*cruelty*” has been elaborated vide explanation (a) and (b).

The explanation “(a)” requires that “there shall be ill-treatment of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health ;

Clause (b) stipulates that, harassment of the women where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

8. On appreciation of contents of FIR, we do not find that any particulars of cruelty stipulated under explanation (A) or (b) can be made out in the facts of this case. No particular date of ill-treatment or specific role of any applicant regarding

ill-treatment is given except omnibus stipulations against husband that he used to beat her after drinking liquor and later on in pursuance of demand of Rs.50,000/- for purchase of motorcycle. Even, such stipulations are without date or the period.

9. It is pertinent to note here that crime no.352 of 2022 is already registered against applicant nos.1 to 3 for selfsame allegations and trial in that case is pending against the applicants. We are of the considered view that there cannot be two prosecutions for selfsame allegations on the basis of two different offences registered at the instance of respondent no.2 with two different police stations. Therefore, registration of the impugned FIR in crime no.463 of 2022 would not be sustainable.

10. Even on the allegations employed in the impugned FIR and keeping in mind the law laid down by the Supreme Court of India in cases of **Preeti Gupta and another Vs. State of Jharkhand and another reported in (2010)7 SCC 667**, **Kahkashan Kausar alias Sonam and others Vs. State of Bihar reported in (2022)6 SCC 599** and **Sushil Kumar Sharma vs. Union of India and others, reported in (2005) 6 SCC 281** and also in case of **State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors reported in AIR 1992 SC 604** for exercise of powers under section 482 of the Cr.P.C., we deem it proper to exercise the powers under section 482 of the Criminal Procedure Code and quash and set aside the impugned FIR and consequential proceeding. Hence, we proceed to pass the following order.

ORDER

- i. Criminal Application is **allowed** in terms of prayer clause “C”, which reads as under :-

“C”. To quash and set aside the impugned First Information Report dated 25.11.2022 in Crime No.463 of 2022 registered by Gondi Police Station, Tq. Ghansawangi, District Jalna for the offences punishable under section 498-A, 323, 504, r/w 34 of the Indian Penal Code.”

- ii. Criminal application stands **disposed off**.
- iii. Since Advocate Mr. R D Thorat is appointed to represent the cause of respondent no.2, his fees is quantified at Rs.7,000/-(Rs. Seven Thousand), to be paid by the High Court Legal Services Sub Committee, Aurangabad.

(S. G. CHAPALGAONKAR)
Judge

(SMT. VIBHA KANKANWADI)
Judge

...

aaa- (f)