



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4257 OF 2022

- 1) Balkishan Radhesham Malpani,
Age-41 years, Occu:Private Job,
(Application of applicant No.1 came to be
disposed of as withdrawn as per order
dated 19th October, 2023),
- 2) Pramila Radhesham Malpani,
Age-67 years, Occu:Household,
(Mother-in-law),
- 3) Nandkishor Radhesham Malpani,
Age-39 years, Occu:Private Job,
(Brother-in-law),

Applicant Nos. 1 to 3: R/o-Samarth Niwas,
Nilam Nagar, Railway Station Road, Jalna,

- 4) Sarita Arvind Mundada,
Age-47 years, Occ:Household,
(Sister-in-law),
R/o-Mahesh Nagar,
New Mondha Road, Jalna,
- 5) Arti Ajay Baheti,
Age-40 years, Occu:Household,
(Sister-in-law),
R/o-Sambhaji Nagar, Jalna,
- 6) Gopish Arvind Mundada,
Age-25 years, Occu:Private Job,
(Nephew), R/o-Mahesh Nagar,
New Mondha Road, Jalna,
Presently R/o-Flat No.15,
Nikhil Apartment, 'A' Wing,
Hingane Khurd, Near Brahma Garden,
Sinhgad Road, Pune- 411051

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through In-charge Police Station,
Chandanjira, District-Jalna,
- 2) Prerna Balkishan Malpani,
Age-33 years, Occu:Household,
R/o-Housing Society, Behind Shriram
School, Dhamangaon Railway,
Taluka-Dhamangaon, District-Amravati.
(Complainant/wife)

...RESPONDENTS

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Mr. Jiwan J. Patil Advocate for Applicant Nos. 2 to 6.
Application of applicant No.1 came to be disposed of
as withdrawn as per order dated 19th October, 2023.
Mr. A.V. Lavte, A.P.P. for Respondent No.1.
Mr. A.G. Deshmukh Advocate for Respondent No.2 (**appointed**).

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

DATE : 01st OCTOBER, 2024

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

1. Present Application has been filed under Section 482 of the Code of Criminal Procedure, initially for quashing the First Information Report (for short 'the FIR') vide Crime No.385 of 2022 registered with Chandanjira Police Station, Jalna, District-Jalna and by way of amendment, for quashment of the charge-sheet i.e. proceedings in R.C.C. No.66 of 2023 pending before the learned Judicial Magistrate, First Class, Court No.3 at Jalna

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

2. It will not be out of place to mention here at the beginning itself that when disinclination was shown to grant any relief to applicant No.1 – husband of the informant, learned Advocate for the applicants on instructions, sought withdrawal of the application of applicant No.1. Accordingly, by order dated 19th October, 2023 the application of applicant No.1 - Balkishan Radhesham Malpani came to be disposed of as withdrawn. The application, therefore, proceeded for consideration of the reliefs claimed by applicant Nos.2 to 6.

3. Heard learned Advocate Mr. Patil for applicant Nos. 2 to 6, learned APP Mr. Lavte for respondent No.1 and learned Advocate Mr. Deshmukh appointed to represent respondent No.2. In order to cut short, it can be said that all the learned Advocates have argued in support of their respective contentions.

4. Perusal of the FIR and the charge-sheet would reveal that respondent No.2 got married to applicant No.1 on 6th July 2022. It is alleged in the FIR that she was treated properly for about 10 to 12 days only, thereafter mother-in-law started saying that the

informant is unable to do the domestic work. The brother-in-law used to take side of the mother and used to insult the informant. When she used to tell about the same to husband, the husband used to say that informant should not reside at that place but should go to the house of her father. When her parents had gone to persuade the applicants on 30th July 2022, at that time the applicants started saying that her parents have not given gold as settled and they started demanding amount of Rs.2,00,000/-. The husband had gone to leave the informant and her child to the house of her parents. But at that time the informant left the child with her parents and went forcibly along with the husband. Nephew had gone along with the husband. At that time the husband and nephew demanded amount of Rs.2,00,000/-. Thereafter also there was an attempt to settle the matter on 2nd October 2022 by taking a meeting, yet the harassment has not reduced. She says that she is unable to say as to how she consumed the medicine for killing rats around 3.00 p.m. on 8th October 2022. The husband had then admitted her to Government Hospital, Jalna around 6.30 p.m. She says that she was discharged on 9th October 2022, but the husband was not ready to take her for cohabitation and therefore, she lodged the report.

5. The statements of witnesses are also on the same line. The parents have not at all stated as to what was decided at the time of settlement of marriage. Though it is stated that there was demand of Rs.2,00,000/- but it is not stated for what purpose the demand was made. Unless the demand is for illegal purpose or the demand itself is illegal, it cannot be said that it would attract in any way offence under Section 498-A of the Indian Penal Code. If the amount has been demanded as a loan, then the demand cannot be said to be illegal. Use of word 'harassment' at two or three places does not make the FIR acceptable to fulfill the ingredients of offence punishable under Section 498-A of the Indian Penal Code.

6. It appears that there is suppression by the informant about her first marriage and her child out of the first marriage, because she states that the marriage between her and applicant No.1 had taken place on 6th July 2022 and then she says that the husband had gone to leave her on 29th September 2022 to her parents house along with her child, then the question arises as to how within two months of marriage there would be a child. Learned Advocate for the applicants, on instructions, states that

the informant was married earlier but then thereafter there was marriage between the informant and applicant No.1. The age of the child is also not given in the FIR. Even the statements of the witnesses are silent on the first marriage and child from the first marriage of the informant.

7. The allegations against applicant Nos.2 to 6 are omnibus and it appears that they have been made as accused only with an ulterior motive and therefore, the case is made out for exercise of powers under Section 482 of the Code of Criminal Procedure. Hence the following order:-

ORDER

(I) The Application stands partly allowed.

(II) proceedings in R.C.C. No.66 of 2023 pending before the learned Judicial Magistrate, First Class, Court No.3 at Jalna arising out of First Information Report vide Crime No.385 of 2022 registered with Chandanjira Police Station, Jalna, District-Jalna for the offence punishable under Section 498-A, 504 read with Section 34 of the Indian Penal Code, stands quashed

and set aside as against applicant Nos. 2 to 6 i.e. -
No.2 - Pramila Radhesham Malpani, No.3 - Nandkishor
Radhesham Malpani, No.4 - Sarita Arvind Mundada,
No.5 - Arti Ajay Baheti and No.6 - Gopish Arvind
Mundada.

(III) The fees of the learned Advocate Mr. A.G.
Deshmukh, appointed to represent respondent No.2, is
quantified at Rs.5,000/- (Rupees Five Thousand), to
be paid by the High Court Legal Services Sub
Committee, Aurangabad.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/OCT24