



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 4336 OF 2023

Firdos D/o Khaled Momin
Age : 41 years, Occ : Service,
R/o Tondapur, Tq. Jamner,
Dist. Jalgaon.

..APPLICANT

-VERSUS-

1. The State of Maharashtra
Through Police Inspector,
Georai Police Station,
Tq. Georai, Dist. Beed.
2. Ummeruman Mohamad Mustak Momin
Age : 24 years, Occ : Household,
R/o Karanjaroad, Beed,
At present Nikam Galli, Georai,
Tq. Georai, Dist. Beed.

..RESPONDENTS

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Advocate for Applicant : Mr. Amol R. Gaikwad
APP for Respondent- State : Mrs. P.R. Bharaswadkar

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

DATED : 26 NOVEMBER, 2024.

JUDGMENT (PER ROHIT W. JOSHI, J.):

. The applicant is aggrieved by registration of offence against her vide F.I.R. No. 547/2021, dated 29.11.2021 registered at Georai Police Station, Dist. Beed and registration of criminal case, being Regular Criminal Case No. 152/2022, which is pending on the

file of the learned Judicial Magistrate, First Class, Georai, Dist. Beed, for the offences punishable under sections 498-A, 323, 504, 506 read with section 34 of the Indian Penal Code.

2. The offence is registered at the behest of respondent No.2-informant. The applicant is accused no.5 in the matter. Accused No.1 is husband, accused No.2 is mother-in-law and accused Nos.3 and 4 are brothers-in-law of informant – respondent No.2.

3. Marriage of respondent No.2 with Momin Mohammad Mustaq Khaled, brother of the applicant, was solemnized on 21.06.2018. They are blessed with a daughter, named, Fatima from the said marriage. She was around two and half years old on 29.11.2021 when the F.I.R. was lodged.

4. The allegation in the F.I.R. is that after solemnization of marriage on 21.06.2018, the in-laws had treated respondent No.2 well for a period of around 8-10 months. However, thereafter, they had started demanding an amount of Rs. 7,00,000/- from the informant-respondent No.2, asking her to get the said amount from her father. The informant – respondent No.2 alleges that she had expressed inability of her father to arrange the said amount due to his financial constraints and as a consequence of this, in-laws started ill-treatment on the several pretexts, such as she does not cook properly, she is

suffering from some unknown ailments and her father did not give presents such as Cooler, Refrigerator, T.V. etc., and other articles of utility in the marriage. She further alleges that she had been to her father's house for delivery of the child and since she delivered a girl child, the in-laws were unhappy and thereafter they did not bring her back to reside with them. According to her, she is residing at her father's place since then. She refers to an incident dated 30.07.2021 alleging that her husband and brothers-in-law i.e. accused Nos.1 and 3 had visited her at her father's residence and had beaten up and abused her and threatened to kill her. These are the allegations levelled in the F.I.R.

5. After completion of the investigation, the charge-sheet has been filed in the matter under Section 173 of the Code of Criminal Procedure, pursuant to which, Regular Criminal Case No.152/2022 is registered and is pending on the file of learned Judicial Magistrate, First Class, Georai.

6. Heard Mr. Amol R. Gaikwad, learned advocate for the applicant and Mrs. P. R. Bharaswadkar, learned APP for respondent No.1. Respondent No.2-informant has not appeared though served.

7. We have perused the FIR, charge-sheet and documents appended to the charge-sheet.

8. On perusal of the entire record, we find learned advocate for the applicant is justified in submitting that there is no allegation of harassment or ill-treatment against the present applicant. The present applicant is sister-in-law of the informant. Perusal of the F.I.R. will indicate that vague and omnibus allegations are levelled against in-laws of respondent No.2 without naming any person. The date or tentative period of alleged harassment or ill-treatment is also not stated. There is only one specific allegation referring to incident dated 30.07.2021, which is only against the husband and his brothers i.e. accused Nos.1 to 3. Even if the contents of the F.I.R. are taken on their face value and assumed to be true, we are of the opinion that no offence whatsoever is made out against the present applicant. We further state that there is no material of any nature whatsoever to remotely correlate the present applicant with any of the attributes of section 498-A, 323, 504 or 506 of the Indian Penal Code. There is nothing to infer common intention in order to attract section 34 of the Indian Penal Code.

9. Learned APP tried to contend that reference to in-laws would include the applicant as well, who is sister-in-law of respondent No.2. She states that reference to demand of Rs.7,00,000/- is made against all the in-laws and as such, there is material against the applicant to make her to face the trial. She states that this is not a fit

case for quashing of the criminal prosecution against the applicant.

10. We are not impressed with the submissions advanced by learned APP. We reiterate that the allegations in the FIR are omnibus allegations. They are not specific. They do not even refer to any specific date or tentative period, apart from the incident dated 30.07.2021, which is not related to the present applicant. There is absolutely no material against the applicant to make her suffer the agony of facing criminal prosecution. The continuation of the prosecution against the applicant would be abuse of process of law. We are, therefore, of the view that the application deserves to be allowed. Hence, we pass the following order

ORDER

- (i) The application is allowed.
- (ii) F.I.R. No. 547/2021 dated 29.11.2021 registered against applicant – Firdos Khaled Momin at Georai Police Station, Dist. Beed, for the offence punishable under sections 498-A, 323, 504, 506 read with section 34 of the Indian Penal Code and Regular Criminal Case No. 152/2022 pending on the file of the learned Judicial Magistrate, First Class, Georai, Dist. Beed, are hereby quashed.

[R.W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE