



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

CRIMINAL APPLICATION NO. 4556 OF 2023

1. Harshal S/o Prabhakar Kakde
Age : 38 Years, Occ. Service,
R/o. Victeriya Building, Patil Nagar,
near Academic Hights School,
Pimpri Chinchwad, Chikhali, Pune.
2. Prabhakar S/o Ramchandra Kakde,
Age : 69 Years, Occ. Agriculture
R/o. As above
3. Mina W/o Prabhakar Kakde,
Age : 32 years, Occ. Service
R/o. As above.
4. Pooja W/o Aditya Joshi (Sister-in-law)
Age : 32 Years, Occ. Service,
R/o. As above. .. Applicants

VERSUS

1. The State of Maharashtra,
Through Sillod City Police Station,
Sillod Dist. Aurangabad.
2. Shweta W/o Harshal kakde,
Age : 34 years, Occ. Household,
R/o. Victeriya Building, Patil Nagar
Near Academic Hights School,
Pimpri Chinchwad, Chikhali, Pune
At present R/o. c/o Vasant Gopalrao
Sontakke, R/o. Vadodchatha,
Tal. Sillod, Dist. Aurangabad. .. Respondents
(R-2 Orig, Complainant)

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Advocate for the Applicants : Mr. A.M. Gholap
A.P.P. for Respondent No.2 : Mr. A. V. Lavate
Advocate for Respondent No.2 : Mr. D.P. Palodkar

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

DATED : DECEMBER 09, 2024

JUDGMENT (Per Rohit W. Joshi, J.):

1. The present Criminal application is preferred under Section 498-A of the Code of Criminal Procedure *inter alia* praying to quash the First Information Report bearing Crime No. 0204 of 2023 registered with Sillod City Police Station, Sillod, District Aurangabad for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code. (Hereinafter referred to as "IPC" for brevity). Section 498-A is cognizable and other sections are non cognizable. Respondent No.2 is the informant.

2. After filing of the present application respondent No.1 has filed charge sheet in the matter on 06.01.2023 vide final report No. 01/2023 pursuant to which Regular Criminal Case 17 of 2024 is registered against the applicants which is pending on the file of the learned Judicial magistrate First Class, Sillod, District Aurangabad.

3. The applicants are related to respondent No.2 as under :-

- (1) applicant No.1- husband
- (2) applicant No.2 – father-in-law,
- (3) applicant No.3- mother-in-law

(4) applicant No.4- sister-in-law.

4. As per the statements in the FIR, marriage of respondent No.2 was solemnized with applicant No.1 on 05.02.2013. Respondent No.2 states that her in-laws had treated her properly for a period of around one year and thereafter, the ill-treatment started. According to her, the applicants used to abuse her and harassed her mentally, physically, stating that she was not good looking, and that she was not earning and sitting idle in the house. She further alleges that the in-laws made demand of dowry of Rupees Ten Lakhs. As regards applicant No.1, she has alleges that he was addicted to liquor and used to physically assault her under the influence of liquor and used to persistently make demand of dowry of Rupees Ten lakhs. She has alleged that due to said harassment, she has started residing with her parents at Santa Nagar Sillod and thereafter her husband and parents-in-law i.e. applicant No.1 to 3 had come to her father's residence on three to four occasions asking for sum of Rupees Ten Lakhs failing which they expressed that they would not take respondent No.2 back in the matrimonial home. These are allegations against applicant Nos. 1 to 3.

5. After hearing the learned Advocate for the applicants, we

had expressed disinclination to grant any relief to applicant Nos. 1 to 3. The learned Advocate for the applicants made oral motion seeking permission to withdraw the application for applicant Nos. 1 to 3 and made further submissions on merit with respect to applicant No.4.

6. As regards applicant No.4, he submitted that there are no specific allegations against her in the FIR. She has stated that marriage of applicant No.4 was solemnized in the year 2019. The allegation against her is that, she used to visit house intermittently and instigate applicant Nos. 1 to 3 to harass respondent No.2.

7. We have heard learned Advocate Shri. A V. Lavate, learned A.P.P and Shri. D.P. Pallodkar learned Advocate for respondent Nos. 1 and 2 respectively. They would submit that at the initial stage while entertaining application under Section 482 of the Code of Criminal Procedure the allegations must be viewed and accepted on their face value. They submit that definite allegations have been made against applicant No.4 in the FIR and statement of the witnesses. Therefore, there is sufficient material to proceed with trial against applicant No.4 as well.

8. Having perused the FIR and other material including the statements recorded during the course of investigation, we find

that the undisputedly applicant No.4 is married sister-in-law. Her marriage was solemnized in the year 2019 and the FIR is lodged in the year 2023. As per the contents of the FIR harassment of respondent No.2 started somewhere around one year after her marriage i.e. from February 2014 tentatively. During stay of applicant No.4 at her paternal home for a period around five years up to her marriage respondent No.2 has not referred to any specific incident of harassment meted out to her by applicant No.4. Same is case with allegations pertaining to the period after the marriage. The allegations against applicant No.4 are clearly vague and indefinite which cannot be taken into consideration.

9. We are of the clear opinion that the material on record i.e. contents of the FIR and statement of witnesses are grossly inadequate to make out any case against applicant No.4 for proceeding against her. The prosecution case against applicant No.4 stands on a very weak foundation. The implication of applicant No.4, in the matter is clearly without any supporting material and consequently we cannot allow continuation of prosecution against applicant No.4, which would amount to abuse of process of law.

10. Hence, we pass the following order :-

ORDER

- (I) The application is partly allowed.
- (II) The application is dismissed as withdrawn with respect to applicant Nos. 1 to 3.
- (II) FIR No.0204 of 2023 dated 26.10.2023 registered with Police Station Sillod City, Tahsil Sillod District Aurnagabad for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and Regular Criminal Case No. 17 of 2024 pending on the file of learned learned Judicial Magistrate, First Class, Sillod, District Aurangabad are hereby quashed against applicant No.4 namely Pooja W/o Aditya Joshi.

(ROHIT W. JOSHI)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

Y.S. Kulkarni