



Judgment

952 apl 885.24 + apl 622.24 (2)

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION (APL) NO. 885/2024

WITH

CRIMINAL APPLICATION (APL) NO. 622/2024

CRIMINAL APPLICATION (APL) NO. 885/2024

Suhas Ashok Kharat,
Aged about 33 yrs., Occ. Service,
R/o. G-5 Riddhi Siddhi Park Society,
Pancharatna Dwar, Pakhadi, Kharegaon
Kalwa, Thane-400605, Tq. & Dist. Thane
(Husband of non-applicant No.2)

... **APPLICANT**

VERSUS

1. The State of Maharashtra,
through Police Station Officer, Shivaji
Nagar, Buldhan.
2. Sau. Manisha Suhas Kharat,
Age 29 yrs., R/o. Gajanan Colony,
Ghatpuri, Shiavaji Nagar,
Tq. Khamgaon, Dist. Buldhana
(wife of applicant)

...**NON-APPLICANTS**

Mr. Amol Mardikar, Advocate for applicant.
Mr. U. Phasate, APP for non-applicant No.1/State.
Ms. Astha Sharma, Advocate (appointed) for non-applicant No.2

WITH

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CRIMINAL APPLICATION (APL) NO. 622/2024

1. Sau. Mangal Pawan Chandankar (Sister-in-law)
Aged 43 yrs., Occ. Housewife,
2. Pawan D. Chandankar (Husband of applicant No.1)
Age 45 yrs., Occ. Lecturer (Freelancer),

Both R/o. 203, Sudhakar near Jarimari Mandir Pakhadi
Kalwa, Thane.
3. Ashok S. Kharat (Father-in-law),
Age 71 yrs., Occ. Retired,
4. Gangavati Ashok Kharat (Mother-in-law)
Age 64 yrs., Occ. Housewife,

Both R/o. G-5, Riddhi Siddhi Park Soc.
Pakhadi Kharegaon Kalwa Thane.
5. Santosh Ashok Kharat (Brother-in-law)
Age 45 yrs., Occ. Service,
6. Trupti Santosh Kharat (wife of applicant No.5)
Age 44 yrs., Occ. Housewife,

Applicant Nos. 3 to 6 R/o. B-3/402, Rajlaxmi Park,
near Vitthal Mandir Parsik Nagar, Thane.
7. Amol A. Bhosale (Husband of applicant No.8)
Age 44 yrs., Occ. Service,
8. Manisha Amol bhosale (sister-in-law)
Age 41 yrs., Occ. Housewife,
Both R/o. 402, B wing, Matruchaya Heritage,
near Karmel Convent School, Section 11,
Kalamboli Navi Mumbai.

... **APPLICANTS**

VERSUS

1. State of Maharashtra,
through Police Station Officer,
Shivaji Nagar, Buldhana.
2. Sau. Manisha Suhas Kharat,
Age 29 yrs., R/o. Gajanan Colony,
Ghatpuri, Shivaji Nagar,
Tq. Khamgaon, Dist. Buldhana

...NON-APPLICANTS

Mr. Amol Mardikar, Advocate for applicants.
Mrs. N. Tripathi, APP for non-applicant No.1/State.
Ms. Astha Sharma, Advocate (appointed) for non-applicant No.2

**CORAM : VINAY JOSHI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 09.10.2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard.

2. **Admit.**

3. Both applications are similarly for seeking to quash charge-sheet (RCC No.751/2024) arising out of Crime No. 4/2024 registered with Police Station Shivaji Nagar, Buldhan for the offence punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code.

Correction is
carried out as
per order
dated
24.10.2024

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4. The applicants of Criminal Application (APL) No. 622/2024 are nearer relatives of husband whilst applicant of Criminal Application (APL) No. 885/2024 is husband of informant. By these applications, they seek to quash the criminal prosecution on the ground that the contents of Police Report and the material collected during the course of investigation does not make out *priam facie* case to constitute the offence. It is argued that the entire family has been roped in the matrimonial dispute which is nothing but sheer harassment. It is submitted that most of the relatives are residing elsewhere, however they have been falsely implicated.

5. *Per contra*, the learned APP as well as learned counsel appearing for informant resisted the applications by contending that the informant lady has stated about the involvement of all applicants. They took us through the portion of initial written complaint dated 21.08.2023 to contend that the informant lady alleges that at the instances of all relatives, husband used to beat and harass her. Moreover, our attention has been invited to the statement that all applicants used to raise monetary demand. On 25.07.2023, applicant Nos. 7 and 8 with husband of informant removed all ornaments from the informant.

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6. With the assistance of both sides, we have gone through entire material. After matrimonial discord, the informant has initially filed written complaint with the Police on 21.08.2023 which has triggered into lodging of report. The couple got married on 27.11.2020, on which the informant started to cohabit with her husband and in-laws. The informant herself stated that the applicants in Criminal Application (APL) No. 622/2024 who are sister-in-laws and their husbands are residing elsewhere. They are in visiting terms at informant's house. The entire complaint discloses that the informant has made general allegation against all the relatives stating that they have instigated the husband who in turn, physically harassed her. It is stated that the applicants used to humiliate her, however not a single instance has been quoted. As regards to alleged incident dated 25.07.2023 is concerned, the husband allegedly removed her ornaments, in which applicant Nos. 7 and 8 are stated to have joined. Admittedly, they are residing separate and even if accepted the said isolated act as it stand, it fails short to make an offence of cruelty within the meaning of Section 498-A of the Indian Penal Code. We have also gone through the statement of informant recorded by the Police on 10.01.2024 which is in consonance with the initial complaint.

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7. The learned counsel appearing for applicants relied on the decisions of the Supreme Court in cases of *Kahkashan Kausar alias Sonam Vs. State of Bihar and other*, (2022) 6 SCC 599, *Seenivasan Vs. State by Inspector of Police and others*, (2019) 8 SCC 642, *Abhishek Vs. State of Madhya Pradesh*, 2023 SCC OnLine SC 1083, *Mahalakshmi and others Vs. State of Karnataka and another*, 2023 SCC OnLine SC 1622, *Priyanka Mishra and others Vs. State of Madhya Pradesh and another*, 2023 SCC OnLine SC 978 and *Rashmi Chopra Vs. State of Uttar Pradesh and another*, (2019) 15 SCC 357 to contend that on the basis of vague and general allegations, the relatives of husband cannot be dragged into litigation. We have considered the above decisions, wherein the Supreme Court has reiterated that the tendency of involving maximum family members of husband in matrimonial dispute is at rise. The Court shall not allow to continue the prosecution against the relatives on the basis of omnibus vague and general allegations.

8. In the light of above position, we have re-examined the entire material. It reveals that the allegations raised about the actual harassment, demand of money and beating are particularly against the husband. The role of rest of the relatives are about instigating the husband. The informant

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has not stated any specific instance, occasion, date or something more to construe that they have participated in the act of harassment. Mere vague reference of the relatives would fall short to make out a triable case.

9. In view of above, continuation of prosecution against the relatives of husband in Criminal Application (APL) No. 622/2024 would be abuse of the process of the Court. As regards to the husband who is applicant in Criminal Application (APL) No. 885/2024 is concerned, there is *prima facie* case, hence his application carries no merits.

10. In view of above, Criminal Application (APL) No. 885/2024 stands dismissed. Criminal Application (APL) No. 622/2024 is allowed. We hereby quash and set aside charge-sheet (RCC No.751/2024) arising out of Crime No. 4/2024 registered with Police Station Shivaji Nagar, Buldhan for the offence punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code to the extent of relatives of husband i.e. the applicants of Criminal Application (APL) No. 622/2024

11. Applications stand disposed of in above terms.

12. Fees be paid to the appointed counsel as per Rule.

Correction is
carried out as
per order
Dated
24.10.2024

(SANJAY A. DESHMUKH, J.)

(VINAY JOSHI, J.)