



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

CRIMINAL APPLICATION (APL) NO.162 OF 2024

1. Madhukar Pandurang Band, Aged about 68 years, Occupation-Agriculturist. R/o Sasti, Tq. Patur, Dist. Akola.(Husband's Cousin Uncle)
2. Nakul Raju Band, Aged about 27 years, Occupation Private Job R/o Flat No.S Not 644/2A Out House Chintamani Nagar Bibavewadi Pune, Tq. Dist.Pune. (Housband's Cousin Brother)
3. Rajesh Narayabn Ghogale, Aged about 42 years, Occupation-Government Servant. (Husband of Husband's sister)
4. Rajshree Rajesh Ghogale, Aged about 38 years, Occupation-House Wife, Applicant No.3 and 4 R/o.Khetan Nagar, Koulkhed, Akola, Tq. And Dist. Akola(Husband's Sister).
5. Pradip Haridas Raut, Aged about 50 years, Occupation-Teacher R/o. Bajar Square, Telhara, Tq. And Dist. Akola. (Husband of Husband's Cousin Sister)

Applicants

-Versus-

1. State of Maharashtra through Police Station Officer, Police Station Balapur, Tq.Balapur Dist.Akola.
2. Roshni Atul Band, Aged about 27 years, Occupation House wife r/o Near Babuji Maharaj Temple, Paras, Tq.Balapur, Dist. Akola.

**non-
applicants**

Mr.A.M.Tirukh, Advocate for the applicant.
Mr.H.D.Futane, APP for non-applicant State
Mr.H.S. Chawhan Adv. For non applicant No.2.

**CORAM : VIBHA KANKANWADI AND
MRS.VRUSHALI V. JOSHI, JJ.**

DATE : 16th July, 2024

ORAL JUDGMENT (Per : Vrushali V.Joshi, J.)

Heard.

2. **Admit.** The application is heard finally with the consent of the learned counsel for the parties.
3. The applicants have filed this Criminal Application under Section 482 of the Code of Criminal Procedure for quashing of the Charge-sheet bearing RCC No.3 of 2024 pending on the file of Judicial Magistrate First Class, Balapur, District Akola, arising out of registration of First Information Report vide Crime No.697 of 2023, registered with Police Station Balapur, dist. Akola for the offences punishable under Section 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code. The applicants are relatives of the husband of non-applicant No.2. Applicant No.1 is cousin uncle of the of the husband of non-applicant No.2, applicant no.2 is cousin brother,

applicant No.3 is husband of sister, applicant no.4 is sister-in-law and 5 is husband of cousin sister. The non-applicant No.2 along with her real in-laws and the husband has made allegations against these applicants, who are not directly concerned with the non-applicant No.2.

4. The marriage of non-applicant No.2 is performed with accused No.1 Atul Sudhakar Band, on 20.04.2022. The allegations are made that the applicant No.1 and his parents demanded dowry and harassed her for the fulfillment of said demand. The husband of non-applicant No2 was having job in Pune. Before going to Pune, they stayed at the matrimonial house at Sasti with in-laws and allegation are made that at that time, in-laws treated her with cruelty. She has made allegations against her husband that he beat her and for demand of money the maximum demand of amount is fulfilled by the parents of non-applicant No.2. Then also, they treated her with cruelty. The allegations made against all these applicants that they are the relatives of her husband and they were also involved in abetting her husband to harass her. The allegations made against applicant No.2 are that he used to visit her house at

Pune and used to ask her to give meal to him and if she says no, he used to tell her husband that her character is not good and thereafter her husband used to beat her. The allegations about applicant Nos. 4 and 5 are that they used to stay at her matrimonial house for 15 days and they used to harass her. She has made allegations against all the relatives of the husband.

5. The learned counsel for the applicants has stated that the applicant No.1 is not at all concerned with non-applicant No.2 and her husband and never went to Pune at her matrimonial house. The applicant No.2 is cousin of husband. He resides independently in Pune at some different address. He never went to matrimonial house of non-applicant No.2 at Sasti or even Pune. They are not even the close family members of the husband of non-applicant No.2. The applicant No.3 is serving as Clerk in Sub- Registrar Office of Akola and he is staying in Akola. Wife of applicant No.4 and 5 are serving as teacher in private Schools at Telhara. All these applicants are residing at distant places and are not remotely concern with the matrimonial dispute between the non applicant No.2 and her husband.

6. The allegations made by respondent No.2 for the period from May 2022 to January 2023. During that period, non applicant no.2 was staying at Pune with her husband. As the applicant Nos. 3 and 4 were doing jobs and they were attending their duties, they never visited the matrimonial house at Pune and had no time to spend with them for 15 days. Only in order to create pressure on her husband, the non applicant No.2 has mentioned the names of all these applicants making vague and omnibus allegations against these applicants. The husband of the non-applicant No.2 has moved the representation before the Superintendent of Police, Akola as to how these applicants have been falsely implicated by the non-applicant No.2 in the said crime to harass the entire family. Hence prayed to quash the First Information Report and Charge-sheet filed in Judicial Magistrate First Class, Balapur.

7. The non-applicant No.1 has filed the reply and denied the contents in the application stating that there is demand of money and for fulfillment of said demand, the accused persons harassed

her. Specific allegations are made against all these applicants. The statements are recorded during the investigation and charge-sheet is also filed. *Prima facie* involvement of the applicants is found in commission of the offence. Hence, prayed to reject the application.

8. Heard both the learned counsel.

9. All the applicants are not close relatives of the husband of non-applicant No.2. Serious allegations are made about demand and fulfillment of it. Allegations are made against husband about harassment and beating. It appears that only to harass the family members of the husband, not only the family but the relatives of the husband, who are not concern with the family matter of the non-applicant no.2 are roped by making vague allegations against them.

10. The stay of the non-applicant no.2 with her husband after marriage was not even for one year. The marriage was performed on 28.04.2022 and she went to her matrimonial house on 20.03.2023. Though serious allegations are made against the

husband and his family members, nothing is there against these applicants. They are roped in this crime only because they are distant relatives of the husband of the non-applicant No.2. The allegations are also that they used to visit her matrimonial house which cannot amount to the ill- treatment or harassment as per the provisions of Section 498-A of the Indian Penal Code. As nothing is there against these applicants in the First Information Report and the names are mentioned of these applicants in the First Information Report, only to harass the matrimonial relatives. The Hon'ble Apex court in the case of **Kahkashan Kausar Alias Sonam and ors. Vs. State of Bihar and ors.** reported in **(2022) 6 SCC 599**, has specifically observed that tendency involving the maximum number of members of husband's family are at rise on the basis of vague and omnibus allegations they shall not be put to harassment. In view of the said observations made by the Hon'ble Apex Court, the First Information Report and the Charge-sheet filed against these applicants is required to be quashed and set aside.

11. Charge-sheet bearing RCC No.3 of 2024 pending on the file of Judicial Magistrate First Class, Balapur, District Akola,

arising out of Crime No.697 of 2023, registered with Police Station Balapur, dist. Akola for the offences punishable under Section 498-A, 323, 504, 506 r/w 34 of the Indian penal Code is hereby quashed and set aside against the present applicants only.

(MRS.VRUSHALI V. JOSHI, J.) (VIBHA KANKANWADI, J.)