



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.117 OF 2025

1. Bhushan s/o Sudhakar Rao Kulkarni
Age: 32 years, Occu.: Service,
R/o. Bhawani Nagar, Juna Mondha,
Chhatrapati Sambhajinagar
2. Sunita wd/o Sudhakar Rao Kulkarni
Age: 62 years, Occu.: Nil,
R/o. Bhawani Nagar, Juna Mondha,
Chhatrapati Sambhajinagar,
3. Bhavna d/o Sudhakar Rao Kulkarni
Age: 26 years, Occu.: Nil,
R/o. Bhawani Nagar, Juna Mondha,
Chhatrapati Sambhajinagar

.. Applicants

Versus

1. The State of Maharashtra
Through Police Inspector,
Cidco Police Station,
Dist. Chhatrapati Sambhajinagar.
2. Vrushali w/o Bhushan Kulkarni,
Age: 31 years, Occu.: Service,
R/o. H.No.1/325, N-7 Cidco,
in front of Mukulmandir School,
Chhatrapati Sambhajinagar.

.. Respondents

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Mr. S. F. Bankar, Advocate for the applicants.

Mrs. P. R. Bharaswadkar, APP for respondent No.1/State.

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**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 27 FEBRUARY 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Present application has been filed by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashing the FIR vide Crime No.71 of 2024 dated 25.11.2024 registered with Cidco Police Station, District Chhatrapati Sambhajanagar for the offences punishable under Sections 115(2), 351(2), 352 and 85 of Bhartiya Nyaya Sanhita, 2023.

2. Heard learned Advocate Mr. S. F. Bankar for the applicants and learned APP Mrs. P. R. Bharaswadkar for respondent No.1/State. No necessity to issue notice to respondent No.2 at this stage.

3. Learned Advocate for the applicants submits that the applicants are the husband, mother-in-law and sister-in-law of respondent No.2. Applicant No.1 got married to respondent No.2 on 06.07.2019 and they have daughter aged two years. She contends that she was treated properly for about four to five months only after the marriage and thereafter, applicant Nos.2 and 3 started harassing her on the ground that she is unable to do any household work, doing it very slowly and takes a full day

to complete a work, there is no use of her education and she is dull witted. Applicant Nos.2 and 3 used to instigate applicant No.1 and then there used to be quarrel between applicant Nos.1 and respondent No.2. The husband used to give abuses to her. All those are omnibus allegations and no specific allegation is made when she says that she was allegedly assaulted and abused in the Diwali of 2021. Even after the daughter was born in December 2022, the harassment continued. Her father got retired in 2021 and thereafter all the accused persons started saying that as her father would have received retiral benefits, she should get the money and then demand was to the extent of Rs.2,50,000/- for the loan which was taken on credit card by applicant No.1. She states that her father had given amount of Rs.50,000/-, but it was returned by saying that when their need is Rs.2,50,000/- what they will do with Rs.50,000/-. The harassment then continued and thereafter, she was driven out of the house on 04.02.2024. In fact, all these allegations of the subsequent period are against her own contention in her application before Bharosa Cell. The story given in the application is different. The contradictions would certainly show that now the FIR is concocted. When it was asked to him as to under which

provisions the Bharosa Cell has been established, he relied on the circular issued by the Government of India, Ministry of Home Affairs directing the Chief Secretaries of the State Government dated 20.10.2009 wherein by referring to Section 498-A of Indian Penal Code and the decisions of Delhi High Court as well as Supreme Court, it was stated that no arrest should be made in respect of such offences. Misuse of law should be curtailed. Further, it is stated that since amending the law would take long time, the State Governments were requested to comply with the procedure given by the Hon'ble Supreme Court in ***D. K. Basu Vs. State of West Bengal, [CRL CWP No.539/86 dated 18.12.1996]*** and then it is stated that Mahila Desks may be created at Police Stations and Crime Against Women Cell may be created at least at the district level which could specifically cater to complaints made by women. In cases of matrimonial disputes, the first recourse should be to effect conciliation and mediation between the warring spouses and their families and recourse to filing charges under Section 498A IPC may be resorted to in cases where such conciliation fails. Therefore, this circular has been stated to be the initiation of the establishment of Bharosa Cell. Thereafter, he also points out Standing Order No.03/2019 issued

by Maharashtra Government, wherein units such as Bharosa Cell, Mahila Suraksha Samiti etc. were created. It also provided for the procedure. It is then stated that if compromise does not happen, then the applicant will be directed to approach the concerned Police Station, Court or a concerned protection officer for further disposal and therefore, he says that in the present case when parties had not arrived at the compromise, respondent No.2 was asked to lodge the report with the police. The contradictory statements are therefore required to be considered. He further relies on ***Mahmood Ali and Ors. Vs. State of U.P. and Ors., [2023 AIR (SC) 3709]***, wherein it has been held that “even if the entire case of the prosecution is believed or accepted to be true, none of the ingredients to constitute the offence as alleged are disclosed. It is pertinent to note that the FIR in question came to be lodged after a period of 14 years from the alleged illegal acts of the appellants. It is also pertinent to note that in the FIR no specific date or time of the alleged offences has been disclosed. The entire case put up by the first informant on the face of it appears to be concocted and fabricated.”

4. The first and the foremost fact is that ***Mahmood Ali (Supra)*** was the case for quashing the FIR where offence that was alleged

was under Sections 420, 467, 468 of IPC etc. Therefore, definitely, parameters are different. In matrimonial disputes, the wife will not go immediately to police station to lodge the FIR. Certainly, we are bound by the ratio laid down in ***Mahmood Ali (Supra)*** that the Court while exercising its jurisdiction under Section 482 of the Code of Criminal Procedure or Article 226 of the Constitution of India need not restrict itself only to the stage of a case, but is empowered to take into account the overall circumstances leading to the litigation/restriction of the case as well as the material collected in the course of investigation. Further, as regards Bharosa Cell is concerned, even if we accept that its origin is in the said letter dated 20.10.2009 by the Joint Secretary, Government of India, Ministry of Home Affairs, yet the said Cell is not the creature of legislation. It is one of the method or step taken by the State Government for exploring the possibility of settlement before the harsh step of lodging of FIR is taken, since the matrimonial disputes are considered on a different footing where conciliation and compromise through conciliation or mediation is the prime object. The lady approaching the Bharosa Cell cannot be put in disadvantageous position. Of course, in normal parlance it is expected that her

case in Bharosa Cell as well as in the FIR should be same, but when she adopts or goes before Bharosa Cell, then privacy is required to be maintained and the same has been reflected in the Standing Order No.03/2019 issued by Maharashtra Government. It is stated that “8. Privacy of each individual has to be absolutely maintained to enhance trust and credibility of Bharosa Cell.” When the compromise does not take place, it is our opinion that whatever has been stated before the Bharosa Cell which is a mediation forum, should not be allowed to be relied by the adverse party. It will not be out of place to mention here that in another matter before us exactly the same point has been raised by us. We had heard learned Advocate General Mr. Biren Saraf on this point and he has assured that the Government will come up with some policy decision on this point. He had principally accepted that since the proceedings before Bharosa Cell are the part of mediation, the confidentiality should be maintained.

5. Even if for the sake of arguments at this stage we take that there is some difference or some such facts which have been stated in the application before the Bharosa Cell by respondent No.2, yet unless it amounts to material contradiction going to the root of the case, we cannot consider the FIR to be concocted.

Every fact is explainable. The investigation in this case is still going on and, therefore, only on the basis of alleged contradictions, we cannot exercise our powers under Section 482 of the Code of Criminal Procedure.

6. Here, in the present case role is attributed to each of the applicants. There is demand of Rs.2,50,000/- and then it is followed by driving her out of the house, giving taunts to the lady who is doing job that she is dull witted would definitely amount to mental harassment. Hence, no case is made out even for issuing notice to respondent No.2. No case is made out for quashing the FIR, which is almost at a premature stage. Hence, the application stands rejected at the threshold.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm