



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
903 CRIMINAL APPLICATION NO. 189 OF 2022

1. Aashalata W/O. Sarjerao Phulare
Age : 65 Years, Occ. Household,
R/o. Salivada, Tal. Khultabad,
Dist. Aurangabad.
2. Jayshri W/o Suresh Jagdale
Age : 50 years, Occ. Household,
R/o. Nakshatra Wadi, Aurangabad,
Tal. Dist. Aurangabad
3. Rajshri W/o Ajit Dhavale,
Age : 42 years, Occu. Household,
R/o. Plot No.21, Adarsh Nagar,
Jalgaon, Tal. & Dist. Aurangabad ...Applicants

Versus

1. The State Of Maharashtra
Through the Police Sub Inspector,
MIDC Paithan Police Station, Paithan
Tal. Paithan, Dist. Aurangabad.
2. Shailja W/o Rajesh Phulare
Age : 34 years, Occ. Household,
R/o. Sant Eknath Government Sugar
Factor Colony, Mudhalwadi, Paithan,
Tal. Paithan, Dist. Aurangabad ...Respondents

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Mr. Patil Ujwal Subhash, Advocate for the Applicants
Mr. N. R. Dayama, APP for Respondent/State
Ms. Pooja Vijay Langhe & Mr. Vijay Ramrao Langhe, Advocate for
respondent No.2

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

DATED : 27th MARCH 2025

ORDER :-

1. Present application has been filed initially for quashment of First Information Report (for short "FIR) vide Crime No.39 of 2021 dated 01.04.2021 registered with M.I.D.C., Paithan, Police Station, Tq. Paithan, Dist. Aurangabad for the offences punishable under Sections 498-A, 323, 504, 506 r/w. Section 34 of Indian Penal Code, 1860 and later on by way of amendment for quashing the proceedings in Regular Criminal Case No.389 of 2021 pending before the learned Judicial Magistrate First Class, Paithan, Tal. Paithan, Dist. Aurangabad.

2. It will not be out of place to mention here that when the matter was on board on 15th February 2022, the disinclination appears to have been shown to grant any relief to applicant No.1, who is the Mother-in-law of the informant, the learned Advocate for the applicants, on instructions, sought withdrawal of the application as against her. Now the matter has proceeded for the reliefs claimed by applicant nos.2 and 3 who are the Sisters-in-law of respondent No.2. The fact, which is not in dispute, is that present respondent No.2 got married to one Rajesh Phulare who is the son of applicant No.1 and brother of applicant Nos.2 and 3, on 17.04.2016 as per Hindu rites. Prior to one and half years of FIR the informant was residing with her

parents. The learned Advocate appearing for the applicants submits that perusal of the FIR and the contents of the chargesheet would show that even if the contents thereof are taken as it is they are not making out the basic ingredients of the offences. The chargesheet consisting of the statements of parents and brothers of respondent No.2. As regards role attributed to present applicant Nos.2 and 3 is concerned, it is stated that they used to raise suspicion over the character of respondent No.2 and used to harass her mentally and physically. As against applicant No.2 it is stated that she had taken the ornaments of the informant under the pretext that she wants to attend marriage ceremony but thereafter she has not returned those ornaments. It is then stated by the informant herself that when she had told the said fact to her parents and brother they had given her understanding as the informant wanted to cohabit. She left with her father on 13.08.2019 for the festival of Rakshabandhan. After attending the said festival when she returned to her matrimonial home it is stated that the husband had kicked her and driven her out of house also abused her father. What is not in dispute is that both applicant Nos.2 and 3 are the married Sisters-in-law and therefore just to rope them in the said offence, those allegations have been made. Therefore, it would be unjust to ask them to face the trial.

3. Learned Advocate for respondent No.2 strongly objected the application and submits that respondent No.2 though marry appears to have been driven out of the house by her husband and therefore she was residing with applicant No.1. There are specific allegations against both applicant Nos.2 and 3 that they used to raise suspicion over the character of the informant and used to harass her mentally and physically. As against applicant No.2 the allegations are specific that she had taken the ornaments of the informant and did not return to informant. This fact is supported by the statements of parents and brother of the informant to whom the informant had immediately conveyed as they are her near and dear ones with whom she can share her sorrows.

4. Before we proceed, only fact is mentioned here that there was an attempt by this Court to have mediation but it is not successful.

5. As aforesaid, the application is now restricted for applicant Nos.2 and 3 who are the married sisters-in-law of the informant. In the FIR itself, as regards applicant No.2-Jayshri, it is stated by the informant that she resides at Nakshatrawadi, Aurangabad. The address of accused Nos.1 and 2 i.e. husband and mother-in-law has been given as Saliwadi, MIDC Paithan, Aurangabad Rural. Now, it is

tried to be contended by respondent No.2 that in fact Jayshri is residing with accused Nos.1 and 2 after allegedly separating from her husband. No such statement has been made in the entire FIR nor it also appears in the statement of the parents and brother of the informant. Therefore, subsequent change in the stand of the informant cannot be accepted. There is absolutely no statement as to why all the time applicant Nos.2 and 3 by leaving their matrimonial home used to be in the house of accused Nos.1 and 2. When it is stated that applicant Nos.2 and 3 used to raise suspicion over the character of the informant, it is in fact the allegations against all the accused. Mere use of the words “raising suspicion over character” is not sufficient and further use of the words “mental and physical harassment” are also of not use when the details thereof are not given. The other allegations are against the husband who is not before this Court. Thereafter, as against applicant No.2 it is stated that she took informant’s ornaments under the pretext to attend marriage ceremony. When this incident had taken place is not given and which ornaments were taken are also not given. So the allegations are vague and omnibus and to rope the relatives of the husband unnecessarily and therefore it would be abuse of process of law if applicant Nos.2 and 3 are asked to face the trial. Case is made out for exercise of power under Section 482 of Code of Criminal

Procedure, 1973. Hence, the following order :-

O R D E R

- i. Application stands allowed.
- ii. The proceedings in Regular Criminal Case No.389 of 2021 pending before the learned Judicial Magistrate First Class, Paithan, Tal. Paithan, Dist. Aurangabad arising out of First Information Report vide Crime No.39 of 2021 dated 01.04.2021 registered with M.I.D.C., Paithan, Police Station, Tq. Paithan, Dist. Aurangabad for the offences punishable under Sections 498-A, 323, 504, 506 r/w. Section 34 of Indian Penal Code, 1860 stand quashed and set aside as against applicant No.2-Jayshri W/o Suresh Jagdale and applicant No.3-Rajshri W/o Ajit Dhavale.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE