



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

10 CRIMINAL APPLICATION NO.256 OF 2024

- 1 Manisha Pradip Waghmare,
Age 35 yrs., Occ. Household,
R/o Yashwantrao Chavan Chowk,
Phule Nagar, Ambajogai,
Tq. Ambajogai, Dist. Beed.
- 2 Pradip Janardhan Waghmare,
Age 46 yrs., Occ. Service,
R/o Yashwantrao Chavan Chowk,
Phule Nagar, Ambajogai,
Tq. Ambajogai, Dist. Beed.
- 3 Bhagyashri Sanghrakshit @ Raju Hatangale,
Age 33 yrs., Occ. Household,
R/o Vidyut Nagar, Morewadi,
Tq. Ambajogai, Dist. Beed.
- 4 Sangharakshit Dnyanoba Hatangale,
Age 43 yrs., Occ. Labour,
R/o Vidyut Nagar, Morewadi,
Tq. Ambajogai, Dist. Beed.
- 5 Jayshri Ajay Bhalerao,
Age 27 yrs., Occ. Household,
R/o Near Bouddha Vihar, New Hanuman Nagar,
Aurangabad, Tq. & Dist. Aurangabad.
- 6 Ajay Balasaheb Bhalerao,
Age 28 yrs., Occ. Labour,
R/o Near Bouddha Vihar, New Hanuman Nagar,
Aurangabad, Tq. & Dist. Aurangabad.
- 7 Vilas Bhanudas Dhimdhome,
Age 46 yrs., Occ. Assistant Teacher,
R/o Akar Nagar, Morewadi,
Tq. Ambajogai, Dist. Beed.

- 8 Amita Vilas Dhimdhome,
Age 44 yrs., Occ. Practicing Lawyer,
R/o Akar Nagar, Morewadi,
Tq. Ambajogai, Dist. Beed.
- 9 Suresh Bhanudas Dhimdhome,
Age 54 yrs., Occ. Labour,
R/o Phule Nagar, Ambajogai,
Tq. Ambajogai, Dist. Beed.

... Applicants

... Versus ...

- 1 The State of Maharashtra
Through Officer In-charge,
Police Station, Ambajogai (City),
Tq. Ambajogai, Dist. Beed.
- 2 X.Y.Z.

... Respondents

...

Mrs. Ashwini A. Lomte, Advocate for applicants

Mrs. R.P. Gour, APP for respondent No.1

Mr. V.A. Sayyed, Advocate for respondent No.2

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

DATE : 21st FEBRUARY, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

- 1 Present application has been filed initially for quashing First

Information Report vide Crime No.394/2023 dated 20.10.2023 registered with Police Station, Ambajogai (City), Dist. Beed and by way of amendment for quashing proceedings in Sessions Case No.20/2024 pending before learned Additional Sessions Judge, Ambajogai, Dist. Beed, for the offence punishable under Sections 498-A, 376(1), 377, 406, 354, 323, 500, 506 read with Section 34 of the Indian Penal Code, 1860.

2 It will not be out of place to mention here that after disinclination is shown to grant any relief to applicant Nos.1, 3 and 5, learned Advocate for applicants, upon instructions, sought withdrawal of application as against them. Application stands disposed of as withdrawn as against applicant Nos.1, 3 and 5. Application proceeded for the reliefs claimed by applicant Nos.2, 4 and 6 to 9.

3 Heard learned Advocate Mrs. Ashwini A. Lomte for applicants, learned APP Mrs. R.P. Gour for respondent No.1 and learned Advocate Mr. V.A. Sayyed for respondent No.2. In order to cut short, it can be said that they have argued in support of their respective contentions.

4 At the outset, we would like to place it on record that only few accused persons are before this Court. Husband and parents-in-law i.e. in all accused Nos.1 to 3 are not before this Court. Original accused Nos.4 to 12

are before this Court. It is not in dispute that informant – respondent No.2 got married with original accused No.1 on 01.06.2022. Applicant Nos.1, 3 and 5 are sister-in-law of informant, applicant Nos.2, 4 and 6 are husbands of applicant Nos.1, 3 and 5 respectively, applicant Nos.7 and 9 are uncles of husband of respondent No.2 and applicant No.8 is wife of applicant No.7. All the applicants are residing at different places and not along with original accused Nos.1 to 3. We are taking note of the allegations only against applicants in view of the fact that original accused Nos.1 to 3 are not before us.

5 Perusal of First Information Report would show that according to talks at the time of settlement of marriage had taken place in the house of applicant Manisha, which is stated to have been attended by all the accused persons. Then she makes allegations against husband regarding offence under Section 377 of the Indian Penal Code and then she says that when she informed about those acts to other accused persons, they had not supported her and they had given her threat that she should behave the way the husband want, otherwise she should take divorce. By taking these allegations we may observe that such allegations cannot amount to cruelty as defined under Section 498-A of the Indian Penal Code. Each person should act in his own way and the said act independently should amount to cruelty.

Instigation or common intention cannot be the basis on which the offence under Section 498-A of the Indian Penal Code can be proved. As aforesaid, the marriage took place on 01.06.2022 and then she says that she went to stay with her husband at Pune on 05.07.2022. Then she came to know that in fact, husband was not earning at all. Then all the allegations are against the husband. She says that she came to matrimonial home on 20.02.2023, at that time, also she told her grievance against the husband regarding unnatural offence to applicants and in-laws, but, at that time, she was abused and assaulted by husband. She says that she was defamed by husband by saying that she is a person of third gender. She then stated that all accused conspired to show that she is mentally unstable person and, therefore, taken her to Doctor. She has also stated that on 22.02.2023 all the accused persons had made her naked in order to check her genital and when she objected, she was assaulted. Here itself, we would observe that if such heinous act was done with her, it was for her to immediately approach the police. But she has lodged First Information Report on 20.10.2023, that is, after about 08 months. She has not even stated that she has immediately informed the said fact to her parents. She has then made allegation that she was intentionally taken to gynecologist at Ambajogai on 14.03.2023. After examining her, Doctor opined that there is no physical fault in her, but all the accused told that they had brought her to prepare false documents. Even from Dr. Ingole

such representation was made and medicine was prescribed. She then states that she was driven out of the house on 01.04.2023. Now, if we consider documents from Dr. Rajesh Ingole and his written statement, then it can be seen that the grievance before him was different and it reflects presence of husband only with the informant. Said Doctor runs a psychiatric hospital and it was told to him that there are quarrels between husband and wife, because of which they are getting headache, suspicion over another and it is also affecting their physical relations. It was also stated that financial condition in the matrimonial home is not sound as compared to her parental home and, therefore, she is having difficulty in adjusting herself. What has been stated is that Doctor gave couple counselling and for a relaxing and removing stress he has given medicines. There is no such document which would show that she has been declared or considered to be a mentally challenged person. Same is the case with another Doctor i.e. Dr. Naina Sirsat, who is a gynecologist. It is specifically observed by both Doctors that husband and wife were having misunderstanding regarding physical relations/sex and, therefore, they were advised. It appears that with some ulterior motive now the informant is levelling allegations against the husbands of married sisters-in-law, uncles and aunt of husband, thereby taking vindictive attitude and, therefore, it would be unjust to ask the applicants to face the trial. Hence, following order.

ORDER

- i) Criminal Application stands partly allowed.
- ii) Criminal Application stands disposed of as withdrawn, after disinclination, as against applicant Nos.1) **Manisha Pradip Waghmare**, 3) **Bhagyashri Sanghrakshit @ Raju Hatangale** and 5) **Jayshri Ajay Bhalerao**.
- iii) Criminal Application stands allowed as against applicant Nos.2) **Pradip Janardhan Waghmare**, 4) **Sangharakshit Dnyanoba Hatangale**, 6) **Ajay Balasaheb Bhalerao**, 7) **Vilas Bhanudas Dhimdhome**, 8) **Amita Vilas Dhimdhome** and 9) **Suresh Bhanudas Dhimdhome**.
- iv) Proceedings in Sessions Case No.20/2024 pending before learned Additional Sessions Judge, Ambajogai, Dist. Beed arising out of First Information Report vide Crime No.394/2023 dated 20.10.2023 registered with Police Station, Ambajogai (City), Dist. Beed, for the offence punishable under Sections 498-A, 376(1), 377, 406, 354, 323, 500, 506 read with Section 34 of the Indian Penal Code, 1860, stands quashed and set aside as against applicants Nos.2, 4 and 6 to 9.

(**SANJAY A. DESHMUKH, J.)**

(**SMT. VIBHA KANKANWADI, J.)**

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