



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

35 CRIMINAL APPLICATION NO.634 OF 2023

- 1 Vimal Devidas Bhagwat,
Age 65 yrs., Occ. Housewife,
R/o Plot No.8, Nutan Torana
Housing Society, N-8, CIDCO,
Aurangabad.
- 2 Devidas Bhanudas Bhagwat,
Age 71 yrs., Occ. Retired,
R/o Plot No.8, Nutan Torana
Housing Society, N-8, CIDCO,
Aurangabad.
- 3 Urmila w/o Santosh Mapari,
Age 40 yrs., Occ. Teacher,
R/o Row House No.29, Gat No.126/2,
Radha Krishna Vihar, Beed By-pass,
Aurangabad.
- 4 Anuradha w/o Girish Sahane,
Age 37 yrs., Occ. Teacher,
Itkheda, Paithan Road,
Tq. & Dist. Aurangabad.
- 5 Santosh Annasaheb Mapari,
Age 42 yrs., Occ. Service,
R/o Row House No.29, Gat No.126/2,
Radha Krishna Vihar, Beed By-pass,
Aurangabad.
- 6 Girish Kisanrao Sahane,
Age 40 yrs., Occ. Lecturer,
R/o Itkheda, Paithan Road,
Tq. & Dist. Aurangabad.

... Applicants

... **Versus** ...

- 1 The State of Maharashtra
Through Police Station, CIDCO,
Aurangabad.
- 2 Vanita w/o Vijay Bhagwat,
Age 37 yrs., Occ. Housewife,
R/o C/o Dr. N.T. Kikam,
Sachin Clinic, Bazar Sawangi,
Tq. Khultabad, Dist. Aurangabad.

... **Respondents**

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Mr. K.A. Ingle, Advocate for applicants

Mr. V.K. Kotecha, APP for respondent No.1

Mr. A.R. Kawade, Advocate for respondent No.2

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

DATE : 05th MARCH, 2025

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

1 Present application has been filed initially for quashing First Information Report vide Crime No.53/2023 dated 28.01.2023 registered with Police Station, CIDCO, Aurangabad, for the offence punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code, 1860 and under Sections 3, 4 of the Dowry Prohibition Act, 1961 and later

on by way of amendment for quashing Regular Criminal Case No.2899 of 2023 pending before learned Judicial Magistrate First Class, Aurangabad.

2 Heard learned Advocate Mr. K.A. Ingle for applicants, learned APP Mr. V.K. Kotecha for respondent No.1 and learned Advocate Mr. A.R. Kawade for respondent No.2. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 Perusal of First Information Report lodged by respondent No.2 would show that she got married to son of applicant Nos.1 and 2 on 14.05.2011. She herself along with her husband used to reside at Pune, whereas her matrimonial home is in Aurangabad. She states that when she was in matrimonial home for initial 3-4 months after marriage, at that time, her sisters-in-law used to instigate and then her in-laws and sisters-in-law used to abuse her. They used to instigate the husband and, therefore, there used to be quarrel between herself and her husband. She states that she was even assaulted and insulted by applicant Nos.1 to 4. She is also making allegations against applicant Nos.5 and 6, who are husbands of sisters-in-law. It is then stated that she was insisted to bring amount of Rs.5,00,000/- for the installments of four wheeler. When she had refused, the husband under the influence of liquor used to abuse and assault her. They were blessed with

son in 2012 and it is her statement that still the acts of harassment continued. During the pendency of Corona Pandemic situation in 2020 she came to matrimonial home from Pune along with her husband. She then states that all the applicants on trifle domestic reasons and also for bringing the amount from her parental home had driven her out of the house. She then states that when she had given a phone call for taking her for cohabitation, it was told by in-laws that she should come through Court for cohabitation and then notice for cohabitation was given. Thereafter, she says that there was compromise between herself and her husband and, therefore, she returned to her matrimonial home. But, still harassment continued and then she states that for the education of her son she is residing with her cousin brother's house at Pune.

4 Thus, it can be seen from her First Information Report that most of the time she was residing at Pune with husband, who is not before this Court. Further, it appears that her husband had filed a petition under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights before Family Court, Pune bearing Petition No.A-559/2021. The said matter was taken up before National Lok-Adalat and they had arrived at compromise and note was taken that consent terms were executed as they started cohabitation. When this fact is considered, then the obvious conclusion is

that whatever had happened in the past was condoned by respondent No.2 and she started cohabitation with husband. Now, she cannot fall back and state that the harassment had continued. The settlement which she had arrived at Exh.13 in the said matter before Family Court was voluntarily and, therefore, the proceedings were closed. She has absolutely not stated as to when any other incident had happened post settlement and disposal of said petition on 11.12.2021. In fact, her First Information Report is totally silent in respect of the petition filed against her and settlement, though she lodged First Information Report on 28.01.2023. Thus, First Information Report is based on suppression of material fact. Perusal of statements of witnesses, who are mostly the relatives, would also show that they have not claimed the settlement known to them and then what were the acts of alleged harassment or cruelty post settlement. The ingredients of the offences are absolutely not made out against present applicants, who were in fact, residing separately and even the married sisters-in-law and their husbands have been roped in with ulterior motive. Therefore, this is a fit case where we should exercise our powers under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- i) Criminal Application stands allowed.

ii) The proceeding in Regular Criminal Case No.2899 of 2023 pending before learned Judicial Magistrate First Class, Aurangabad arising out of First Information Report vide Crime No.53/2023 dated 28.01.2023 registered with Police Station, CIDCO, Aurangabad, for the offence punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code, 1860 and under Sections 3, 4 of the Dowry Prohibition Act, 1961, stands quashed and set aside as against applicant Nos. 1) Vimal Devidas Bhagwat, 2) Devidas Bhanudas Bhagwat, 3) Urmila w/o Santosh Mapari, 4) Anuradha w/o Girish Sahane, 5) Santosh Annasaheb Mapari and 6) Girish Kisanrao Sahane.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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