



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

CRIMINAL APPLICATION NO. 657 OF 2023

1. Tushar Gautam Kanade
Age : 32, Occ : Service,
(Earlier vide order dated
09.03.2023 application was rejected
as withdrawn to the extent of applicant
- Tushar Gautam Kanade.
Thereafter, vide order dated 11.09.2023
leave was granted again to add applicant
no.1 – Tushar as party)

2. Gautam Kishan Kanade
Age : 59 years, Occ : Service,

3. Daivshala Gautam Kanade
Age : 51 years, Occ : HW,

Applicant no.1 to 3 R/o Dapks Road,
Samta Nagar, Nilanga, Tq. Nilanga,
Dist. Latur.

4. Pratik Gautam Kanade
Age : 28 years, Occ : Education
Somwar peth, police colony, Pune,
Tq. & Dist. Pune.

5. Bhalchandra Bhanudas Kamble
Age : 38 years, Occ : Service

6. Pallavi Bhalchandra Kamble
Age : 31 years, Occ – HW,

Applicant nos.5 and 6 R/o Yalwat,
Tq. Ausa, Dist. Latur

presently Somvar Peth, police colony,
Pune, Tq. & Dist. Pune.

..APPLICANTS

-VERSUS-

1. State of Maharashtra
Through Police Station Officer,
M.I.D.C. Police Station, Latur,
Tq. & Dist. Latur
2. Poonam Tushar Kanade
Age : 22 years, Occ : Housewife,
Dapsa Road, Samta Nagar,
Nilanga, Tq. Nilanga,
Dist. Latur
Presently residing at
Hudco Colony, M.I.D.C.
Latur, Tq. Latur, Dist. Latur.

..RESPONDENTS

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Advocate for the applicants : Mr. Ravindra J. Nirmal

APP for Respondent- State : Mr. N.R. Dayama

Advocate for respondent No.2 : Mr. Kedar A. Pathade h/f Mr. PP. More

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

DATED : 22nd JANUARY, 2025.

JUDGMENT (PER ROHIT W. JOSHI, J.) :

. The present application is filed under Section 482 of the Code of Criminal Procedure, *inter-alia*, praying to quash F.I.R. No.559/2022 dated 03.10.2022 registered with M.I.D.C. Police Station, Latur, Dist. Latur, for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, Charge-Sheet No.368/2022 and Regular Criminal Case No.1724/2022 pending on the file of the learned Judicial Magistrate, First Class, Latur. The said FIR is registered on the basis of information provided by respondent no.2.

2. The parties are related to respondent no.2 as under :-

- (i) Applicant No.1 – husband
- (ii) Applicant No.2 – father-in-law,
- (iii) Applicant No.3 – mother-in-law,
- (iv) Applicant No.4 – brother-in-law,
- (v) Applicant No.5 – cousin
- (vi) Applicant No.6 – cousin

3. The marriage between applicant no.1 and respondent no.2 was solemnized on 25.06.2020. Applicant No.1 was in service of Electricity Board at Nitur at the time of his marriage. Respondent No.2 has alleged that for a period of around two months from the date of marriage, she was treated well by her in-laws and thereafter for one reason or the other, they used to humiliate and insult her and speak ill about her family members. The principal allegations in the FIR are against applicant no.1 – husband. Respondent No.2 alleges that he used to demand money for purchasing Washing Machine and Car. She further alleges that he used to abuse and beat her under influence of liquor in order to pressurize her and her parents to fulfill the demand. She has stated that on one occasion she was not feeling well and admitted in private hospital, her mother and brother had come to meet

her at matrimonial house where the in-laws abused and illtreated them and had also charged on them threatening to physical assault them. She states that on 23.01.2021, her mother had come to her matrimonial home to take her to parental home for treatment since the medical facilities at Latur are better than Nilanga i.e. the place of matrimonial house and thereafter while she was at her parental house, she tried to call her husband but he did not respond. When the parents went to her matrimonial house in order to talk to applicant no.1 for amicable resolution, applicant no.1 said that he does not like respondent no.2, he wants to marry some other girl and thereafter he forcibly expelled her from the house by abusing her. In such circumstances, respondent no.2 initially approached the Women Grievances Redressal Committee and thereafter, since the issue could not be resolved, she has lodged the FIR.

4. Initially vide order dated 09.03.2023, the present application was withdrawn with respect to applicant no.1 since this Court had expressed disinclination to grant relief to him. However, during the course of hearing held on 11.09.2023, learned Advocates appearing for the parties expressed desire to explore possibility of settlement and accordingly requested for referring the matter for mediation. In view of the aforesaid, vide order dated 11.09.2023, the name of applicant no.1 was permitted to be included despite deletion

vide earlier order dated 09.03.2023. This was done only in order to facilitate the mediation. However, mediation has failed. In view of the earlier order dated 09.03.2023, the matter cannot be heard on merits qua applicant no.1. The learned counsel for the applicant has withdrawn the application qua applicant no.1. The application stands disposed of as withdrawn with respect to applicant no.1. We record our appreciation for the fairness shown by learned counsel for the applicants. We are hearing the parties on merits only for other applicants.

5. We have heard Shri Ravindra J. Nirmal, learned counsel for the applicants, learned APP Shri N.R. Dayama for respondent no.1 and Shri Kedar A. Pathade, learned counsel for respondent no.2. We have also perused the F.I.R., charge-sheet and statements of the witnesses recorded during the course of investigation, which are part of the charge-sheet.

6. Perusal of the FIR and statements make it very clear that the grievance of respondent no.2 is against her husband-applicant no.1. It is stated that applicant no.1 used to demand money for purchasing Washing Machine and Car. As per the F.I.R., the father of respondent no.2 wanted to talk to applicant no.1- husband to reason out to him

that he should treat respondent no.2 well and live happily, however, he refused to talk. She alleges that while she was not well and staying at her parental house, applicant no.1 – husband avoided her despite repeated calls. Applicant No.1 has also allegedly said that he did not like respondent no.2 and wanted to marry another girl. Thus all these allegations are against applicant no.1 alone.

7. There are no allegations worth mentioning against applicant nos.2 to 6. At best it can be said that applicant nos.2 to 6 did not support respondent no.2 in resolution of matrimonial dispute with applicant no.1 in the manner they ought to have. With a view to implicate applicant nos.2 to 6 some statements have been made that they used to illtreat and abuse her. However, these allegations are as vague as they could be. The allegations are not precise and certain. Generic words have been used in order to implicate applicant nos.2 to 6. Allegations are far too general and vague. Applicant No.1 and Respondent No.2 were residing at the place of employment of the applicant i.e. at Nitur. Applicant Nos.2 to 6 were not residing with them.

8. Perusal of F.I.R. and statements of the witnesses will demonstrate that there are no specific allegations of harassment,

illtreatment or cruelty against applicant nos.2 to 6. It appears that due to strained relationship with applicant No.1, the family members of the applicant no.1 are sought to be implicated in the matter. It is now well settled that the relatives of husband should not be forced to face criminal prosecution under Section 498-A of the Indian Penal Code unless there are clear and specific allegations in the F.I.R. and statements of the witnesses indicating commission of offence. In the present case, the allegations are absolutely vague and lacking in all material particulars. In view of the settled legal position by catena of judgments of the Hon'ble Supreme Court as also this Court, we are of the considered opinion that the allegations in the F.I.R. and statements of family members and relatives of respondent No.2 recorded during the course of investigation are grossly insufficient to make out offence under Section 498-A of the Indian Penal Code against applicant Nos.2 to 6. We are therefore inclined to allow the application with respect to applicant Nos.2 to 6. Hence, we pass the following order:

ORDER

- (i) The application is partly allowed.
- (ii) The application with respect to applicant no.1 - Tushar Gautam Kanade stands disposed of as withdrawn.
- (iii) F.I.R. No.559/2022 dated 03.10.2022 registered with M.I.D.C. Police Station, Latur, Dist. Latur, for the offences punishable under

Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, Charge-Sheet No.368/2022 and Regular Criminal Case No.1724/2022 pending on the file of the learned Judicial Magistrate, First Class, Latur are hereby quashed against applicant no.2-Gautam Kishan Kanade, applicant no.3 - Daivshala Gautam Kanade, applicant no.4 - Pratik Gautam Kanade, applicant no.5 - Bhalchandra Bhanudas Kamble and applicant no.6 - Pallavi Bhalchandra Kamble.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

sga/