



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 706 OF 2024

1. Dinesh s/o Tulsiram Pawar
Aged 31 years, Occ. Typist
2. Ganesh s/o Tulsiram Pawar
Aged 28 years, Occ. Labour,
3. Krushna s/o Tulsiram Pawar
Age 26 years, Occ. Student
4. Komal w/o Dinesh Pawar
Age 26 years, Occ. Household
5. Sonali w/o Ganesh Pawar
Age 26 years, Occ. Business,
All R/o. Wadgaon Kolhati,
Tq. & Dist. Aurangabad

... Applicants

Versus

1. The State of Maharashtra,
(Copy to be served on Office of the Public
Prosecutor, Bombay High Court)
Through Udgir Gramin (B) Police Station
Tq. Udgir, Dist. Latur,
in Crime No.391/2023.
2. Bebabai s/o Tulsiram Pawar
Aged 33 years, Occ. Household,
R/o. BeluraTanda, Tq, Jintur,
Dist. Parbhani
Mob. 9552862973

... Respondents

Mr. Ajinkya Reddy, Advocate for applicants.

Mr. A.R. Kale, AGP for respondent No.1/State.

Mr. Sandip P. Rathod, Advocate for respondent No.2.

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

DATE : 23.01.2025

JUDGMENT: (PER: Rohit W. Joshi,J)

Heard finally by consent of both the learned counsel for the parties.

(2) Admit.

(3) The present application is filed under Section 482 of the Code of Criminal Procedure, challenging the FIR registered with Police Station Charthana, Tq. Jintur, District – Parbhani, on 22.06.2022, for the offence punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian penal Code, 1860, as also Regular Criminal Case No.286/2022 pending on the file of the learned Judicial Magistrate First Class, Jintur, District – Prabhani, which is registered pursuant to the said FIR.

(4) The respondent No.2 is the informant who has lodged the FIR. The father of applicant Nos.1 to 3 namely Tulsiram Pawar is the husband of respondent No.2. The respondent No.2 is second wife of said Tulsiram Pawar. The marriage of respondent No.2 with Tulsiram was solemnized somewhere in the year 2011, after the death of his first wife i.e. mother of applicant Nos.1 to 3. The applicant Nos.4 and 5 are wives of applicant Nos.1 and 2, respectively. Thus, the applicant Nos.1 to 3 are step sons and applicant Nos.4 and 5 are step daughters-

in-law of the respondent No.2-informant. The informant is also blessed with two children from her husband Tulsiram, who were born around in the year 2014 and 2015 as per the version of respondent No.2 in the FIR.

(5) The respondent No.2 has lodged above FIR on 22.06.2022, against her husband-Tulsiram and the present applicants, who are her step sons and step daughters-in-law. The respondent No.2 has alleged that after her marriage was solemnized with Tulsiram, he got addicted to liquor and used to constantly abuse her under influence of liquor. She alleges that after the marriage of applicant No.1 which was solemnized somewhere in the year 2019, the applicant Nos.1 to 3 started ill-treating the respondent No.2 and her children. It is alleged that the respondent No.2 and her children were often beaten by the applicants. She states that shortly after the marriage of applicant No.1 marriage of applicant No.2 was also solemnized and thereafter, there used to be quarrels *inter-se* between the applicant Nos.1 to 5 on one side and respondent No.2 on the other. She alleges that the applicant Nos.4 and 5 used to instigate their husband against her, as a consequence of which, the applicant Nos.1 to 3 used to abuse and beat her. She alleges that the applicant Nos.4 & 5 did not treat her

with respect and often insulted her. In this backdrop, she says that she was forced to leave her matrimonial house somewhere around March, 2022 i.e. three months prior to lodging of FIR.

(6) Based on such allegations, the above FIR came to be lodged with respondent No.1-Police Station. The respondent No.1 registered the offence and started investigation in the matter. After completing the investigation, the respondent No.1 has filed final report under Section 173 of the Code of Criminal Procedure on 18.07.2022 vide Charge-sheet No.52/2022. During the course of investigation, statements of parents, brother, maternal uncle and a cousin of the respondent No.2 are recorded by respondent No.1 under Section 161 of Cr.P.C. The statements recorded by respondent No.1 contain allegations similar to those in the FIR.

(7) Perusal of the FIR well demonstrate that there is no allegation with respect to demand for dowry or any harassment in relation to demand for dowry. The allegations in the FIR indicate that after the marriage of her step sons, the atmosphere in the family was not cordial. It appears that there were skirmishes in the family between the respondent No.2 and her step daughters-in-law. The allegations taken on their face value are not sufficient to make out

ingredients of offence under Section 498-A of the Indian Penal Code. Section 498-A provides punishment to husband or his relatives for subjecting the wife to cruelty. The term of cruelty is defined under explanation to Section 498-A. Clause (b) of the explanation is not attracted since, there is no allegation with respect to demand of dowry. As regards, Clause (a), we find that the allegations in the FIR taken on their face value are not sufficient to remotely suggest that the ill-treatment or harassment to the respondent No.2 was of such nature as would be likely to drive her to commit suicide or cause any grave injury or danger to life or limb or mental or physical health.

(8) We are of the considered opinion, having regard to the contents of the FIR and statements of witnesses recorded under Section 161 of the Cr.P.C. that small domestic incidents in the family have assumed greater proportions which instigated the respondent No.2 to take recourse to criminal law by lodging FIR against the applicants. The respondent No.1 has registered the offence without bothering to examine as to whether essential ingredients of Section 498-A are made out. Charge-sheet is also filed mechanically without adverting to ingredients of the section. Since, no offence is made out even on accepting all the allegations in the FIR and 161 statements to

be true and correct, we are of the considered opinion that the continuation of the prosecution against applicants would result in abuse of the legal process. It will also be an exercise in futility. Therefore, in our considered opinion, the FIR and criminal case deserve to be quashed, hence, we proceed to pass the following order:

ORDER

- (i) The application is allowed.
- (ii) The First Information Report (FIR) No.106/2022 dated 22.06.2022 registered with Charthana Police Station, District – Parbhani for the offence punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian penal Code, 1860, Charge-Sheet No.52/2022 dated 31.07.2022 and also Regular Criminal Case No.286/2022 pending on the file of the learned Judicial Magistrate First Class, Jintur, District – Prabhani, are quashed against the applicants namely Dinesh s/o Tulsiram Pawar, Ganesh s/o Tulsiram Pawar, Krushna s/o Tulsiram Pawar, Komal w/o Dinesh Pawar and Sonali w/o Ganesh Pawar, respectively.

[ROHIT W. JOSHI, J.]

[SMT. VIBHA KANKANWADI, J].

Prity