



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 968 OF 2024

- 1) Shashikala w/o Kisan
- 2) Sachin s/o Kisan
- 3) Pratibha w/o Prabhakar
- 4) Prabhakar s/o Shivram
- 5) Shalini w/o Ashok

...Applicants

VERSUS

- 1) The State of Maharashtra.
- 2) Sonali w/o Mahendra

...Respondents

...
Shri Nagargoje Ankush N., Advocate for the Applicants.
Shri G.O. Wattamwar, APP for Respondent No.1/State.
Shri Aditya Arun Puranik, Advocate for Respondent No.2.

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 30 September, 2025

P. C. :-

1. Heard learned advocates for the respective parties.
2. The applicants are challenging the proceedings initiated by respondent No.2 (Sonali Mahendra Gunjal) vide R.C.C. No.195/2022 pending on the file of learned JMFC, Karjat, District Ahilyanagar, for offences punishable under

Sections 498-A, 323, 504, 506(2) r/w 34 of the Indian Penal Code against her husband (Mahendra Kisan Gunal) and present applicants. Applicant No.1 (Shashikala Kisan) is mother-in-law, applicant No.2 (Sachin Kisan) is brother-in-law, applicant No.3 (Pratibha Prabhakar) is sister-in-law, applicant No.4 (Prabhakar Shivram) is brother-in-law and applicant No.5 (Shalini Ashok) is sister-in-law. They are also challenging the order of issuance of process.

3. According to the applicants, the marriage between Mahendra with respondent No.2 took place on 20.06.2014 at Shrirampur, District Ahilyanagar. Mahendra is employed as Assistant Engineer in MSEDCL and since 2014 to 2018, he was posted in Dhule and Chhatrapati Sambhajinagar districts. Respondent No.2/ wife used to accompany Mahendra at places of his posting in those districts. The applicants are relatives of Mahendra and respondent No.2 and they had no occasion to accompany with the couple at their places of posting. The applicants are staying at different places in Beed district whereas, respondent No.2 and Mahendra used to stay in Dhule and Chhatrapati Sambhajinagar districts. In 2018, respondent No.2

got separated from Mahendra and since then, she started residing with her parents at Karjat. Thereafter, the matrimonial proceedings came to be initiated. Respondent No.2 has implicated the applicants only to harass them.

4. Learned advocate for the applicants vehemently submits that learned JMFC while passing the order of issuance of process ought to have made an enquiry under Section 202 of the Code of Criminal Procedure since the applicants are staying beyond the area of jurisdiction of learned JMFC. As such, the impugned order of issuance of process is patently illegal. Another ground which is canvassed by learned advocate is that general allegations have been levelled against the applicants and no specific event or allegation as regards harassment to respondent No.2 has been stated in the complaint. Therefore, the complaint against the applicants is not maintainable. Learned advocate has also submitted that the order of issuance of process is passed in mechanical manner and in view of the judgment of the Honourable Supreme Court in *M/s GHCL Employees Stock Option Trust vs. M/s India Infoline Ltd., 2013 AIR SCW 1906*, learned JMFC is required to apply mind and pass a reasoned

order. He, therefore, prayed for allowing the application.

5. *Per contra*, learned advocate for respondent No.2 submits that the allegations, which are made in the complaint by respondent No.2, are specific in nature. It is the applicants, who used to instigate her husband Mahendra for causing harassment to respondent No.2. According to him, the order of issuance of process is passed after verification of the complaint under Section 200 of the Code of Criminal Procedure. Therefore, there is no illegality or mistake committed by learned JMFC in passing the impugned order. He, therefore, prayed for dismissal of this application.

6. After going through the material placed before this Court and contents of the complaint, it is seen that allegations are of very general nature and no specific allegation of harassment is made against the applicants. The submission of learned advocate for the applicants as regards issuance of process particularly when the applicants are staying outside the area of jurisdiction of learned JMFC, an enquiry under Section 202 was required to be conducted, assumes significance. Learned JMFC was required to undertake an enquiry before issuance of process.

7. Be that as it may, the complaint itself does not disclose any specific averment as regards harassment to respondent No.2 at the hands of the applicants, this application deserves to be allowed, more particularly in view of the observations of the Honourable Supreme Court in ***Kahkashan Kausar vs. State of Bihar reported in (2022) 6 SCC 599***, that there are general tendency of the informant/ complainant in matrimonial disputes to make allegations against in-laws and other relatives to trap them into controversy.

8. In view of the above, this Criminal Application is allowed. The impugned order of issuance of process as well as the proceedings bearing R.C.C. No.195/2022 pending on the file of learned JMFC, Karjat, District Ahilyanagar, are quashed and set aside to the extent of present applicants.

kps

(SUSHIL M. GHODESWAR, J.)