



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.885 OF 2023

1. Sachin s/o Vyankatrao Lavhare
Age: 31 years, Occu.: Nil,
2. Sunanda w/o Vyankatrao Lavhare
Age: 58 years, Occu.: Housewife,
3. Vyankatrao s/o Eknath Lavhare
Age: 61 years, Occu.: Agri.,
All r/o. Near Shivaji Nagar Railway Station,
Near Parli (V), Tq. Parli (V),
District Beed.
4. Savita w/o Arun Gite
Age: 37 years, Occu.: Service,
5. Arun s/o Baliram Gite
Age: 38 years, Occu.: Service,
Both r/o Bhujbal Township,
Flat No.22, Kothrud, Pune,
Tq. And Dist. Pune.
6. Swati w/o Kapil Kadam
Age: 35 years, Occu.: Service,
7. Kapil s/o Sudhakar Kadam
Age: 42 years, Occu.: Service,
Both r/o. Room No.5, Dudhnath Dube Chal,
Dattawadi, Kurargaon, Malad East,
Mumbai.
8. Varsha w/o Shubham Gujlor,
Age: 25 years, Occu.: Service,
9. Shubham s/o Jaywant Gujlor
Age: 27 years, Occu.: Service,
Both R/o.211, Ganesh Khind Road,
Khairwadi Shivajinagar, Vithalwadi,
Pune, Dist. Pune.

.. Applicants

Versus

1. The State of Maharashtra
Through Police Station Chavani,
Tq. And Dist. Aurangabad.
2. Aasha w/o Sachin Lawhare
Age: 34 years, Occu.: Service,
R/o. Chinar Guarden Padegaon,
Tq. And Dist. Aurangabad.

.. Respondents

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Mrs. Vainta H. Sangole, Advocate for the applicants.

Mrs. P. R. Bharaswadkar, APP for respondent No.1/State.

Mr. Shrimant Mundhe, Advocate for respondent No.2.

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

DATE : 18 MARCH 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Present application has been filed initially for quashing the FIR vide Crime No.22 of 2023 dated 13.01.2023 registered with Chavani (Cantonment) Police Station, District Aurangabad and later on, by way of amendment, for quashing the proceedings in R.C.C. No.1742 of 2023 pending before the learned Judicial Magistrate First Class, Aurangabad for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code.

2. Heard learned Advocate Mrs. Vanita H. Sangole for the applicants, learned APP Mrs. P. R. Bharaswadkar for respondent No.1 and learned Advocate Mr. Shrimant Mundhe for respondent No.2.

3. It is not in dispute that applicant No.1 got married to respondent No.2 on 02.01.2019. Applicant Nos.2 and 3 are the parents-in-law, applicant Nos.4, 6 and 8 are the sisters-in-law of respondent No.2 and applicant Nos.5, 7 and 9 are the husbands of applicant Nos.4, 6 and 8 respectively.

4. Learned Advocate for the applicants submits that applicant Nos.2 and 3 were residing at Parali, whereas respondent No.2 went to reside with applicant No.1 at Padegaon in Aurangabad on 30.01.2019, as respondent No.2 was employed with Ghati Hospital, Aurangabad. Thereafter, applicant No.1 ,who was employed in Sun Pharma Company, Gujarat, went to Gujarat to attend his job on 02.02.2019. He used to visit respondent No.2 on Saturday and Sunday. Applicant No.1 and respondent No.2 are blessed with a daughter.

5. Learned Advocate for the applicants further submits that when applicant Nos.2 to 9 were admittedly not residing with applicant No.1, they have been unnecessarily dragged in the litigation. Applicant Nos.2 to 9 were casually visiting either at Parali or even on certain occasions they might have gone to Aurangabad, yet that cannot be considered only for committing cruelty against respondent No.2. The main allegations are against applicant No.1 and, therefore, it would be unjust to ask the other applicants i.e. applicant Nos.2 to 9 to face the trial.

6. Upon disinclination to grant any relief in favour of applicant No.1, learned Advocate for the applicants prayed for withdrawal of the application as against applicant No.1.

7. Learned APP as well as learned Advocate for respondent No.2 strongly opposed the application and they submitted that specific role has been attributed in the FIR against each of the applicants. There are statements of witnesses stating that they have heard the quarrels from the house of the respondent No.2 when she was residing at Padegaon, Aurangabad. The relatives have also stated about the periodical information given by respondent No.2 about harassment meted out to her. Learned Advocate for respondent No.2 relies on the decision in ***Criminal Application (APL) No.1660 of 2022 _____ Vs. State of Maharashtra***, decided at Nagpur Bench on 22.12.2022, wherein it has been held that the nature of mental cruelty being such that, it is not necessary that it must take place in the physical presence of persons and that it can be handed out even from a distant place. Even if the in-laws reside separately, yet they can be the source of mental cruelty and, therefore, it is not necessary to quash and set aside the proceedings against them.

8. Here, it is to be noted that immediately after the marriage on 02.01.2019, it is stated that the informant and applicant No.1 started

residing at Padegaon, Aurangabad from 30.01.2019. That means, for about 28 days she might have resided at her matrimonial home. The daughter was begotten on 21.06.2020. The informant says that applicant No.1 left for his job in Gujarat on 02.02.2019. He used to come on Saturday and Sunday to meet her. There used to be quarrel between them, as he used to be engrossed in phone. He was not giving a phone call from Gujarat to her. She says that thereafter applicant No.1 started demanding amount of Rs.5,00,000/- to be brought for purchase of flat. In general, she has stated that the other applicants used to come for meeting them at Aurangabad. At that time, they used to insult her by saying that applicant No.1 is the only son to applicant Nos.2 and 3 and he is well placed. They are having agricultural land, 3 to 4 houses and she has married to applicant No.1 though she was not worth. She should give divorce to him and if she wants to stay, then she should bring amount of Rs.10,00,000/- for purchase of flat to applicant No.1 and for purchase of vehicle. By saying so, they used to give her mental torture. Here, it is to be noted that for how many times they had come approximately to meet her at Aurangabad has not been stated. Then it is stated that all the applicants had come to Aurangabad for celebrating Diwali on 27.10.2019. They started raising quarrel on the ground that it was the first Diwali after the first marriage, still they are not been gifted with new clothes, ornaments, gifts etc. It is stated that she was assaulted

and kept starved, though she was pregnant of one month. Due to the quarrels, her sister and neighbour had come and separated them. On the next day, she states that her husband and the applicants went away and thereafter, they had not contacted her. They had not even picked her phone, but then she delivered the daughter on 21.06.2020. Nobody came to meet her and see the daughter. Now, it is tried to be stated that this incident is then supported by the statements of neighbouring persons. Even if we take statements of those witnesses as it is, it is in respect of incident dated 27.10.2019 only, which cannot be then considered as cruelty as defined under Section 498-A of Indian Penal Code. The informant has not stated that at that time she has disclosed about her pregnancy to the applicants. Then she says that on 12.01.2021 applicant No.1 went to her house at Padegaon expressing his remorse and thereafter, started residing with her. Even the other applicants used to come and stayed with her and treated her properly for about some days. Thereafter again on the same reason, she was harassed. She states that as she could not bring the amount, the husband assaulted her and left her on 13.03.2022. Here, it is to be noted again that the informant is conveniently stating when the applicants used to come to her house, treated her properly etc. There is one N.C. that has been lodged by the informant on 13.03.2022, wherein presence of only one person i.e. applicant No.1 in her house at Padegaon has been

disclosed and it is stated that when she came from duty, the husband insisted that she should give something to him to eat. When she told that since she has returned from duty she would freshen up and then give him something to eat, at that time, applicant No.1 had assaulted her with fists and abused. This is the usual wear and tear in the matrimonial home. Prior to that on 27.02.2022 another N.C. was registered, when there was dispute raised by applicant No.1 as to why she has not prepared a good tea. Specific acts of the mental harassment by applicant Nos.2 to 9 have not been stated. Therefore, this is a fit case where we should exercise our inherent powers under Section 482 of the Code of Criminal Procedure. Hence, the following order :-

ORDER

- I) Criminal Application stands partly allowed.
- II) Criminal Application stands disposed of as withdrawn as against applicant No.1 – Sachin s/o Vyankatrao Lavhare.
- III) The FIR vide Crime No.22 of 2023 dated 13.01.2023 registered with Chavani (Cantonment) Police Station, District Aurangabad and the proceedings in R.C.C. No.1742 of 2023 pending before the learned Judicial Magistrate First Class, Aurangabad for the offences punishable under Sections 498-A,

323, 504, 506 read with Section 34 of Indian Penal Code, stand quashed and set aside as against applicant No.2 -**Sunanda w/o Vyankatrao Lavhare**, applicant No.3 - **Vyankatrao s/o Eknath Lavhare**, applicant No.4 - **Savita w/o Arun Gite**, applicant No.5 - **Arun s/o Baliram Gite**, applicant No.6 - **Swati w/o Kapil Kadam**, applicant No.7 - **Kapil s/o Sudhakar Kadam**, applicant No.8 - **Varsha w/o Shubham Gujlor** and applicant No.9 - **Shubham s/o Jaywant Gujlor**.

[**SANJAY A. DESHMUKH**]
JUDGE

[**SMT. VIBHA KANKANWADI**]
JUDGE

scm