



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

CRIMINAL APPLICATION NO. 1353 OF 2022

1. Balaji S/o Bibhishan Sagar.
2. Savita W/o Bibhishan Sagar.
3. Bibhishan S/o Baburao Sagar.
4. Mahadev S/o Bibhishan Sagar.
5. Shankar S/o Bibhishan Sagar.
6. Vaishnavi W/o Suresh Alte. **... Applicants**

Versus

1. The State of Maharashtra.
2. Jyoti W/o Balaji Sagar. **... Respondents**

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Mr. Sandeep C. Swami, Advocate for Applicants.

Mr. S. A. Gaikwad, APP for Respondent No.1 / State.

Mr. Prashant B. Jadhav, Advocate for Respondent No.2.

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

DATE : 27th February, 2025.

ORDER: (Per Sanjay A. Deshmukh, J.)

. Heard the learned advocates for the respective parties.

2 This is an application under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C.") for quashing the

proceedings in R.C.C. No.45 of 2022, pending in the Court of the learned Judicial Magistrate First Class 5th, Latur, arising out of FIR bearing C.R. No.789 of 2021, dated 9th December, 2021, registered with M.I.D.C. Police Station, Taluka and District Latur, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code (for short "IPC").

3 The application of applicant No.1 was already withdrawn on 25th April, 2022. Applicant Nos.2 and 3 are the parents-in-law, applicant Nos.4 and 5 are the brothers-in-law and applicant No.6 is the sister-in-law of the informant.

4 It is averred in the report by the informant that her marriage with accused No.1 was solemnized on 23rd March, 2018 as per Hindu customs and traditions. In her marriage, five tolas gold was given. Initially she was treated well for one and half years, until she gave birth to a baby girl. Thereafter, on the instigation of applicant Nos.2 to 5, her husband started to abuse, beat and keep the informant on starvation. When she told that fact to her mother-in-law, brothers-in-law and sister-in-law, they also started to abuse her. All the applicants demanded to her Rs.1,00,000/- for opening a new grocery shop. When she could not pay that amount, she was expelled from the house. On 28th September, 2021, when the informant went to the

house of her husband for cohabitation, all the applicants said that the informant should not come in their house, they are giving divorce to her and if the informant wants to come there, she should come with Rs.1,00,000/- for starting a new grocery shop. At that time, they abused and assaulted the informant by kick and fist blows. They also threatened to kill her and expelled her from the house. On 4th October, 2021, the informant filed a complaint with the Women's Grievance Redressal Center, Superintendent of Police Office, Latur for compromise. The applicants refused to take the informant back for cohabitation. Thereafter, she lodged the report.

5 The learned counsel for the applicants submitted that false allegations are made against the applicants. The applicants never treated the informant with cruelty. They never demanded Rs.1,00,000/-. The report is vague and omnibus allegations are made against the applicants. No specific incident is stated in the report and the statement of witnesses. In such circumstances, exercising our inherent powers in favour of the applicants for quashing the proceedings is necessary. He lastly prayed to allow the application.

6 The learned APP for the State strongly opposed the application and submitted that the role of the applicants is specified in the report. They have demanded Rs.1,00,000/- for starting a new

grocery shop to the informant. She was beaten and harassed. He further submitted that there is strong evidence against the applicants constituting the essential ingredients of section 498-A, 323, 504 and 506 of the IPC. He lastly prayed to reject the application.

7 The learned counsel for the informant / respondent No.2 also strongly opposed the application and submitted that the marriage of the informant with accused No.1 was performed on 23rd March, 2018 and the report was lodged on 9th December, 2021. After one and half years, she was harassed for the amount of Rs.1,00,000/- for starting a new grocery shop. Thereafter, she was beaten and kept on starvation. She was abused by the applicants. All these allegations are supported by the evidence of witnesses. He submitted that there is strong evidence against the applicants and therefore, it is necessary to proceed against the applicants with the trial. He lastly prayed to reject the application.

8 We have perused the report and the charge-sheet.

9 In the contextual situation, it is also relevant to refer to the decision of the Honourable Supreme Court in ***Mohammad Wajid and Another Vs. State of U.P. and Another***, reported in, ***2023 SCC Online SC 951; 2023 INSC 683***, whereunder the Honourable Supreme Court held thus: -

“34. it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation....”

10 The main allegations are made against the husband of the informant and his application has been withdrawn. No doubt the statements of witnesses are supporting to the informant's report, however, the learned counsel for the applicants submitted that the divorce petition i.e. H.M.P. No.167 of 2020 is filed by the husband of the informant, in which compromise is effected, which is signed by the informant. The learned counsel for the applicants also pointed out a copy of the application submitted to the S.P. Office, Latur, alleging that the informant is having an illicit relationship with one Prashant Ainile.

The wife of Prashant Ainile namely, Chhaya Ainile has also filed complaint against the informant that she is having an illicit relationship with her husband. These complaints dated 28th September, 2021 and 8th October, 2021 are submitted much prior to lodging of the report dated 9th December, 2021. After filing of the petition for divorce on the ground of illicit relationship of the informant with said Prashant Ainile, it appears that the report is lodged against the applicants and the husband of the informant. In such situation and on reading of the report, we are of the view that no specific incident inspiring confidence is stated by the informant in the report. The report is lodged after filing of H.M.P. No.167 of 2020 for divorce by the husband of the informant. In such fact situation and from the report and the statements of the witnesses, we are of the view that the essential ingredients of Section 498-A, 323, 504 and 506 are not establishing against applicant Nos.2 to 6.

11 A reference can be made to the judgment in the case of ***CBI vs. Aryan Singh***, reported in, ***2023 SCC Online SC 379***, in which the Honourable Supreme Court held that as under:-

“Para 10... As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 Cr. P.C., the Court is not required to conduct the mini trial.”

12 The application of applicant No.1 is already withdrawn. Considering the facts and circumstances of the case and above reasons, compelling applicant Nos.2 to 6 to face the trial, would certainly be an abuse of the process of the Court. We are therefore, inclined to partly allow the application by exercising our inherent powers under Section 482 of the Cr.P.C. to prevent the abuse of the process of Court. The application, therefore, deserves to be partly allowed. Hence, the following order:-

ORDER

- I. The application of applicant No.1 is already dismissed as withdrawn by order dated 25th April, 2022.
- II. The application is allowed in terms of prayer clauses (B) and (B-1), to the extent of applicant Nos.2 to 6.
- III. The application stands disposed of.

[SANJAY A. DESHMUKH, J.] [SMT. VIBHA KANKANWADI, J.]

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