



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1296 OF 2023

- 1) Mahesh S/o Lotan Bari,
Age-33 years, Occu:Service,
R/o-Flat No.102, A Wing, Bonzar Infra,
Takai Road, Khopoli,
Taluka-Khalapur, District-Raigad,
- 2) Asha W/o Lotan Bari,
Age-59 years, Occu:Housewife,
R/o-Plot No.10, Gat No.101/3,
Mundada Nagar, Jalgaon,
- 3) Lotan S/o- Garabad Bari,
Age-64 years, Occu:Retired,
R/o-Plot No.10, Gat No.101/3,
Mundada Nagar, Jalgaon,
- 4) Ranjana W/o Bharat Bari,
Age-40 years, Occu:Housewife,
R/o-Pandurang Saraf Nagar, Yawal,
Tq-Yawal, District-Jalgaon,
- 5) Kavita W/o Akash Chandekar,
Age-37 years, Occu:Housewife,
R/o-Flat No.D-8, Parth Enclave Society,
Karve Road, Kakade City Mage,
Karve Nagar, Pune,
- 6) Karuna W/o Sachin Nagpure (Bari),
Age-31 years, Occu:Housewife,
R/o-Near Green Hotel, Kesnand Road,
Wagholi, Pune.

VERSUS

...APPLICANTS

- 1) The State of Maharashtra,
- 2) Meenakshi W/o Mahesh Bari,
Age-27 years, Occu:Housewife,
C/o-Deelip Ramdas Bari,
R/o-Plot No.20[A], Mahabal Colony,
Jalgaon.

...RESPONDENTS

...
Mr. Joydeep Chatterji Advocate for Applicants.
Mr. V.K. Kotechba, A.G.P. for Respondent No.1.
Mr. D.A. Madake Advocate for Respondent No.2.
...

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

DATE OF RESERVING ORDER : 12th FEBRUARY 2025

DATE OF PRONOUNCING ORDER : 6th MARCH 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed, initially for quashing the First Information Report (for short "the FIR") vide Crime No.349 of 2022 dated 23rd November 2022 registered with Ramanand Nagar Police Station, Jalgaon for the offence punishable under Sections 498-A, 504, 506 read with Section 34 of the Indian Penal Code, and by way of amendment for quashing the proceeding in R.C.C. No. 223 of 2023 pending before the learned Judicial Magistrate First Class, Jalgaon.

2. Heard learned Advocate Mr. Chatterji for the applicants, learned APP Mr. Kotecha for the State and learned Advocate Mr. Madake for respondent No.2.

3. It will not be out of place to mention here that after disinclination is shown to grant any relief to applicant No.1 - husband, learned Advocate for the applicants, upon instructions, sought withdrawal of the Application as against applicant No.1. Accordingly, the Application stands dismissed as withdrawn as against applicant No.1. The matter proceeded for the reliefs claimed on behalf of applicant Nos. 2 to 6.

4. It is not in dispute that respondent No.2 got married to present applicant No.1 on 30th January 2021. Applicant No.1 is serving at Khopoli, Taluka-Khalapur, District-Raigad. Applicant Nos.2 and 3 are the parents and applicant Nos.4 to 6 are the sisters of applicant No.1.

5. Perusal of the FIR would show that details are given as to how the husband had behaved with respondent No.2 immediately after the marriage and when they had gone to

Shimla and Manali for honeymoon. Respondent No.2 states that at that time itself she came to know about the affair of her husband with two girls. But then she says that threat was given by applicant No.1 to bear with his relations. At that time applicant No.1 had assaulted her. She says that she had disclosed the said fact to her parents, uncle, aunt cousin brothers etc., who had given understanding to applicant No.1 and therefore, she got assurance. She then states that after her return to matrimonial home, she was harassed by parents-in-law and husband on the ground that gifts and dowry was not given at the time of marriage.

6. It is to be noted that applicant Nos. 4, 5 and 6 are the married sisters-in-law of respondent No.2. Though some act is tried to be assigned to them, there is no mention as to when those incidences have taken place and why the sisters of the husband had come to their parental home. In normal course, she states that she herself, her husband and parents of husband were the persons who were residing together. She has then stated that since husband was having service at Khopoli, all of them were staying together at Khopoli. When she had given reply to the notice given by the husband, she had given the

address of applicant Nos. 2 and 3 of Pimparala, Jalgaon. Thus, it can be considered that with some ulterior motive she is saying that the in-laws had also shifted to Khopoli, at the place of service of her husband. The parents occasional visit to the house of son cannot be considered as usual place of residence.

7. The allegations that respondent No.2 was not allowed to meet her maternal aunt at Pune, stating that she was not able to work properly, she was not able to cook food properly, are the instances of usual wear and tear and it cannot be a regular feature each day. She has also tried to say that sister-in-law Kavita i.e. applicant No.5 told applicant No.1 that it is good if he gives divorce to respondent No.2, otherwise sister Kavita would do something to her life. This is improbable. If the brother is not giving divorce to his wife, why the sister would commit suicide. Then contradictory statements are made that the mother-in-law as well as all the sisters-in-law had taken objection for the pregnancy of respondent No.2 and then she says that all the accused were asking her that she should deliver a son and if she delivers a daughter then they will have a second thought of allowing her to cohabit. She has delivered a daughter on 20th December 2021. She has tried to say that earlier, on 15th May

2021, she had stomach ache and the pains were unbearable but the husband refused to shift her to hospital. She has not stated where she was exactly at that time but if she was at Khopoli, then she says that her younger brother had taken her to Jalgaon and thereby she went to her parental home. Except bare words, there is nothing to support the statement. Immediately after reaching Jalgaon she has not taken medical treatment and documents to that effect have not been produced before the investigating officer. From 15th May 2021 till 20th December 2021 she had not come back to Khopoli and she has not stated that any of the accused had come to meet her or tried to contact her. Thus, as regards applicant Nos. 2 to 6 are concerned, the allegations are omnibus, just to rope them with ulterior motive.

8. Though learned Advocate for the applicants has tried to contend that respondent No.2 in her reply to the notice given by the husband and before the Bharosa Cell in the application, had given some different story, but we cannot go into that aspect unless those documents are proved. The contradiction, omission or improvement are beyond the ambit of inquiry in the application under Section 482 of the Code of Criminal Procedure.

9. Thus, as regards applicant Nos.2 to 6 are concerned, case is made out for exercise of powers under Section 482 of the Code of Criminal Procedure. Hence, we pass following order:-

ORDER

(I) The Application stands partly allowed.

(II) The Application stands dismissed as withdrawn as against applicant No.1 - Mahesh S/o Lotan Bari.

(III) The Application stands allowed in respect of applicant Nos. 2 to 6.

(IV) The proceedings in R.C.C. No. 223 of 2023 pending before the learned Judicial Magistrate First Class, Jalgaon, arising out of the First Information Report vide Crime No.349 of 2022 dated 23rd November 2022 registered with Ramanand Nagar Police Station, Jalgaon for the offence punishable under Sections 498-A, 504, 506 read with Section

34 of the Indian Penal Code, stands quashed and set aside as against applicant Nos. 2 to 6 i.e. - 2) Asha W/o Lotan Bari, 3) Lotan S/o- Garabad Bari, 4) Ranjana W/o Bharat Bari, 5) Kavita W/o Akash Chandekar and 6) Karuna W/o Sachin Nagpure (Bari).

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/MAR25