



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1519 OF 2023

1. Yogesh Madanlal Shah
 2. Rajesh Madanlal Shah
 3. Urvashi Rajesh Shah
 4. Paresh Madanlal Shah
 5. Rakhi Paresh Shah
- ...Applicants

versus

1. The State of Maharashtra
 2. Asmita Yogesh Shah
- ...Respondents

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Mr. B.V.Virdhe h/f Mr. C.S.Kulkarni, advocate for the applicants
Mr. S.A. Gaikwad, A.P.P. for respondent No.1
Mr. Nitin S. Salunke, advocate for respondent No.2 (appointed)

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**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.
DATED : 13th FEBRUARY, 2025**

PER COURT (PER SANJAY A. DESHMUKH, J.):-

1. By this application, filed under Section 482 of the Code of Criminal Procedure, 1973, the applicants are seeking quashment of F.I.R. No. 56 of 2022, registered with Nardana police Station, district Dhule for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. as well as the consequential criminal case bearing R.C.C. No. 33 of 2023, pending before the Judicial Magistrate, First Class, Shindkheda, district Dhule.

2. Learned advocate for the applicants has pointed out the allegations made in the F.I.R., wherein the informant has contended that she married with applicant No.1 on 23.01.2014. In the marriage, her father has given 32 grams gold ornaments to her and 10 grams gold chain to applicant no.1. It is alleged that after the marriage, the applicants used to ill-treat her on account of non performance of domestic duties properly. It is alleged that the applicants used to ill-treat her on account of poor wedding arrangements. The maid in the house was removed from work and instead informant was forced to do the household works. The applicant no. 1 started harassing the informant upon the instigation of applicant nos. 2 to 5, to extract money from the father of the informant. The informant informed about the ill-treatment to her father, upon which she was asked to have patience. Thereafter, two pregnancies of informant were terminated due to the continuous ill-treatment as well as on account of non fulfillment of demand of Rs.15,00,000/- for starting business. The applicant no.1 left the informant to her parental home at Betawad on 13.03.2016, by giving a threat of divorce if the money was not paid. Hence, the brother and the father of the informant reluctantly transferred an amount of Rs.3,00,000/- from the bank account of the brother to the business account of applicant no. 1 namely Shreeji Enterprises. When the informant again went to matrimonial home, she was expelled from the house by applicant no. 3 and applicant no.

1 left her to her parental home on 28.08.2021 with a threat of divorce. It is with these allegations, the informant lodged the report.

3. Learned advocate for the applicants submits that the report is filed afterthought only with a view to harass the applicants. There are no specific allegations against the applicants and whatever the allegations are baseless and imaginary only on the basis of surmises and conjectures. The applicant Nos. 2 to 5 are residing at different places and thus, there is no question to cause cruelty to the informant. It is submitted that no specific overt act is attributed to any of the applicants. From bare perusal of contents of the report, it appears that the same is filed only with a view to set the criminal law in motion and to harass the applicants by implicating them in the false crime. Therefore, he prayed to quash the report as well as the charge sheet.

4. Learned A.P.P. for respondent No.1-State strongly opposed the application by submitting that the names of the applicants are mentioned in the F.I.R. Even the specific roles are attributed to each of the applicants. Furthermore, the applicants have treated the informant with cruelty, physically as well as mentally due to non fulfillment of demand of money for starting of business. They cannot be exonerated from the criminal liability. It is lastly prayed to reject

the application.

5. Learned advocate for respondent No.2, who is appointed to represent the cause of respondent No.2, submits that the names of the applicants are mentioned in the report with specific role attributed to each of them. There was illegal demand of Rs.15,00,000/- at the hands of the applicants for starting business. Learned advocate submitted that due to continuous harassment at the hands of the applicants, the pregnancies of the informant were terminated for two times. The applicants have treated the informant with cruelty, which constitute the offences referred in the F.I.R. Learned advocate therefore, prayed to reject the application.

6. Perused the F.I.R. as well as the charge sheet. It appears that no serious allegations are made against the applicants. The applicant Nos. 2 to 5 are residing separately at different places and therefore, it cannot be said that there was harassment and cruelty caused to the informant at the hands of said applicants. From bare perusal of the contents of report, it appears that the same are made only with an intention to set the criminal law in motion and to harass the applicants by implicating them in the false crime. It further appears that there are no specific allegations against the applicants and whatever the allegations made in the report are baseless and

imaginary, only on the basis of presumption and assumption. In such circumstances, if the applicants are compelled to face the trial, it would be certainly an abuse of process of court. Therefore, we are inclined to allow the application. Hence, the following order:-

O R D E R

- I. The application is allowed.
 - II. The F.I.R. No. 56 of 2022, registered with Nardana police Station, district Dhule for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. as well as the consequential criminal case bearing R.C.C. No. 33 of 2023, pending before the Judicial Magistrate, First Class, Shindkheda, district Dhule, are quashed.
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7. Since Mr. Nitin S. Salunke, learned advocate is appointed to prosecute the cause of respondent No.2, we quantify his legal fees and expenses at Rs.5000/- (Rupees Five thousand only) to be paid by the High Court Legal Services, Sub-Committee, Aurangabad.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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