



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1720 OF 2024

1. Chirag S/o Mahendra Kotak,
Age - 26 years, Occu. - Labour,
R/o. Birla Colony,
Tq. and Dist. - Akola
2. Mahendra S/o Khimjidas Kotak,
Age - 63 years, Occu. - Business,
R/o. Ugawa, Tq. and Dist. - Akola
3. Dipika W/o. Mahendra Kotak,
Age - 55 years, Occ. - Nil,
R/o. Ugawa, Tq. and Dist. - Akola
4. Sonal W/o. Akhil Saglani,
Age - 33 years, Occu. - Household,
R/o. Ekory Ward, Main Road,
Near Hotel Darpan, Chandrapur,
Tq. and Dist. - Chandrapur
5. Neha W/o. Hitesh Mehta,
Age - 31 years, Occu. - Household,
R/o. C/o. B. B. Panchal, Sankat Mochan Road,
Mahinde Chowk, Yawatmal,
Tq. and Dist. - Yawatmal

... APPLICANTS

VERSUS

1. The State of Maharashtra
Through Pimpalner Police Station,
Dist. Akola.
2. Pooja W/o. Chirag Kotak,
Age - 23 years, Occu. - Household,
R/o. Ugawa, Tq and Dist. Akola,
At present : C/o. Mahendra Nathuji Benuskar
Near Senior College, Indira Nagar, Pimpalner,
Tq. - Sakri, Dist. - Dhule.

... RESPONDENTS

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Mr. S. P. Urgunde, Advocate for Applicants
Mr. G. A. Kulkarni, APP for Respondent No.1/State
Mr. Ram Thorat, Advocate for Respondent No.2

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**CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.**

DATE : 24th MARCH, 2025

ORDER :

1. Present application has been filed for quashing the First Information Report vide Crime No. 83 of 2024 registered with Police Station, Pimpalner, District Dhule for the offence punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860.
2. Heard learned advocate for the applicants, learned APP as well as learned advocate for respondent No.2. They all have taken us through the First Information Report and made submissions supporting their contentions.
3. When the matter was on board on 24.04.2024, when disinclination was expressed by this Court to grant any relief to applicant No.1, then upon instructions, the application was withdrawn as against the applicant No.1. After going through the First Information Report and the submissions, when now we are shown our disinclination to grant any relief to applicant Nos. 2 and 3 also, thereupon, upon instructions, the learned advocate for the applicants is seeking withdrawal of the application as against them.

4. The matter proceeded for the submissions on behalf of applicant Nos. 4 and 5 i.e. sisters-in-law. They both are residing at Chandrapur and Yavatmal respectively i.e. in their matrimonial home and it is admitted that their marriages have taken place prior to the marriage between applicant No.1 and the respondent No.2. The respondent No.2 got married to applicant No.1 on 25.01.2023 and the First Information Report has been lodged on 18.03.2024. As aforesaid, the main allegations are against applicant Nos. 1 to 3, but as regards applicant Nos. 4 and 5, who are the married sisters-in-law, the respondent No.2 states that whenever they used to come to their parental home during vacation, at that time they used to instigate the applicant Nos. 1 to 3, even in her supplementary statement, she has repeated the same statement.

5. Instigation to commit cruelty cannot be an offence unless it directly amounts to the act of cruelty. That means the person should directly subject married lady to cruelty. Further, in present case, the acts of cruelty are not continuous but are stated to be whenever the applicant Nos. 4 and 5 used to come to the parental home during vacation. The details of those vacations have not been given. Another fact is that the married life appears to be hardly one year and three months and during that period on how many holidays the applicant Nos. 4 and 5 had come has not been stated. It appears that in order to implicate every relative,

those allegations have been made and therefore, it would be unjust to ask the applicant Nos. 4 and 5 to face the trial. In favour of them, this is a fit case where we should exercise our powers under Section 482 of Criminal Procedure Code, 1973. Hence, following order:

ORDER

- (i) The application stands partly allowed.
- (ii) The application stands dismissed as withdrawn as against applicant Nos. 1 to 3 viz. 1) **Chirag Mahendra Kotak**, 2) **Mahendra Khimjidas Kotak** and 3) **Dipika W/o. Mahendra Kotak**.
- (iii) The First Information Report vide Crime No. 83 of 2024 registered with Police Station, Pimpalner, District Dhule for the offence punishable under Sections 498, 323, 504 and 506 read with Section 34 of the Indian Penal Code, 1860, stands quashed and set aside as against applicant No. 4 - **Sonal W/o. Akhil Saglani** and applicant No. 5 - **Neha W/o. Hitesh Mehta..**

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

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