



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

11 CRIMINAL APPLICATION NO.1714 OF 2022

- 1 Ashwini w/o Mahesh Bhogam,
Age 42 yrs., Occ. Household,
R/o Plot No.2, Jay Bhavani Colony, A-Ward,
Ring Road, Phulewadi,
Dist. Kolhapur.
- 2 Ratnaprabha w/o Suhas More,
Age 66 yrs., Occ. Household,
R/o Ring Road, Isolation Hospital,
Plot No.70(B), Jyotirling Nagar,
Dist. Kolhapur.
- 3 Anuradha w/o Sandip Shinde,
Age 35 yrs., Occ. Household,
R/o Ring Road, Isolation Hospital,
Plot No.70(B), Jyotirling Nagar,
Dist. Kolhapur.
- 4 Archana w/o Shridhar Chavhan,
Age 40 yrs., Occ. Household,
R/o E-38, Swami Samarth Colony,
Vikram Nagar, Kolhapur.
- 5 Shridhar Shivajirao Chavhan,
Age 45 yrs., Occ. Business,
R/o E-38, Swami Samarth Colony,
Vikram Nagar, Kolhapur.

... Applicants

... **Versus** ...

- 1 The State of Maharashtra
Through The Investigating Officer,
Kadim Jalna Police Station,
Tq. & Dist. Jalna.

2 XYZ

... **Respondents**

...

Mr. R.V. Gore, Advocate for applicants

Mr. A.R. Kale, APP for respondent No.1

Mr. R.A. Syed, Advocate for respondent No.2

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

DATE : 02nd JANUARY, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed under Section 482 of the Code of Criminal Procedure, 1973 initially for quashing First Information Report vide Crime No.648/2021 dated 14.12.2021 registered with Kadim Jalna Police Station, Tq. & Dist. Jalna and by way of amendment for quashing proceedings in Special Case No.108/2022 pending before learned Special Judge, under the Atrocities Act/Additional Sessions Judge, Jalna, for the offence punishable under Sections 366, 376, 328, 498-A, 504, 506 read with Section 34 of the Indian Penal Code and under Sections 3(1)(w)(i)(ii), 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of

Atrocities) Act, 1989.

2 It will not be out of place to mention here that after the submissions were heard and this Court has shown disinclination to grant any relief to applicant Nos.1, 4 and 5, learned Advocate appearing for applicants, upon instructions, sought withdrawal of the application.

3 Therefore, the matter proceeded for the reliefs claimed on behalf of applicant Nos.2 and 3.

4 Heard learned Advocate Mr. R.V. Gore for applicants, learned APP Mr. A.R. Kale for respondent No.1 and learned Advocate Mr. R.A. Syed for respondent No.2.

5 Learned Advocate for applicants has submitted that in fact, respondent No.2 got married to original accused No.1 Anant More and the photographs, those have been produced by applicants, would show that she was not at all under threat or tension and happily participated in the rituals of marriage. Still, now, she is levelling allegations that she was abducted and then she was forcibly constrained to undergo the marriage with original accused No.1. She has concocted story about abduction and then she says that she was subjected to cruelty by applicants, who are the relatives of

husband. Against the husband she is levelling the allegations of rape. Perusal of the First Information Report would show that no role has been attributed to applicant Nos.2 and 3. Applicant No.2 is the mother of husband and applicant No.3 is married sister-in-law. When no role has been attributed to them, it would be futile exercise to ask them to face the trial.

6 Learned APP as well as the learned Advocate for respondent No.2 strongly opposed the application as against applicant Nos.2 and 3 also and submitted that in the entire process the mother-in-law and sister-in-law have participated and it was in fact a concerted efforts to abduct the informant and after the marriage was performed the cruelty started. The amount that was demanded was to the tune of Rs.10 lakhs to Rs.15 lakhs for starting business and the cruelty was in the nature of assault. There is evidence against all the accused persons. Now, the charge sheet is filed. Let the trial be conducted.

7 As aforesaid, the application is sought to be withdrawn as against applicant Nos.1, 4 and 5, whose presence has been stated as per the First Information Report in the process of abduction. At this stage itself, we would clarify that when the First Information Report was registered, it was under Sections 366 and 328 of the Indian Penal Code also, however, when

the charge sheet has been produced, it appears that Sections 366 and 328 of the Indian Penal Code have been deleted. It would be for the Special Judge to consider, whether the charge can still be framed for the offence punishable under Sections 366 and 328 of the Indian Penal Code. It is specifically stated that when she was made to sit in a car, where already two ladies and two gents were occupying, she was then given water to drink. Thereafter, she felt giddiness and then all of them were pressing her to perform marriage with accused No.1. In her supplementary statement she has taken the name of applicant Nos.1, 4 and 5 and persons who were occupying the seat in car.

8 Now, when we are considering the application for the reliefs claimed on behalf of applicant Nos.2 and 3, in the entire First Information Report there presence has not been stated in the course of alleged abduction and even after the alleged marriage there is no specific allegation against applicant Nos.2 and 3 regarding the act amounting to cruelty or any other act amounting to any other offence under the Indian Penal Code, so as to attract offence under Section 498-A, 504, 506 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

9 There are statements of witnesses, however, those witnesses are

disclosing the facts on the basis of the narration by the informant.

10 Taking into considering the evidence so collected and the contents of the charge sheet, this is a fit case to exercise powers under Section 482 of the Code of Criminal Procedure Code in favour of applicant Nos.2 and 3 only. Hence, following order.

ORDER

- i) Criminal Application stands partly allowed.
- ii) Criminal Application stands disposed of as withdrawn, after disinclination, against applicant Nos.1) **Ashwini w/o Mahesh Bhogam**, 4) **Archana w/o Shridhar Chavhan** and 5) **Shridhar Shivajirao Chavhan**.
- iii) Criminal Application stands allowed as against applicants No.2) **Ratnaprabha w/o Suhas More** and 3) **Anuradha w/o Sandip Shinde**.
- iv) Proceedings in Special Case No.108/2022 pending before learned Special Judge under the Atrocities Act/Additional Sessions Judge, Jalna arising out of First Information Report vide Crime No.648/2021 dated 14.12.2021 registered with Kadim Jalna Police Station, Tq. & Dist. Jalna, for the offence punishable under Sections 366, 376, 328, 498-A, 504, 506 read

with Section 34 of the Indian Penal Code and under Sections 3(1)(w)(i)(ii), 3(2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 stands quashed and set aside as against applicant Nos.2 and 3.

(ROHIT W. JOSHI, J.)

(SMT. VIBHA KANKANWADI, J.)

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