



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1796 OF 2023

Sandesh s/o Arunkumar Mundada ...Applicant

versus

1. The State of Maharashtra
2. Monali w/o Sandesh Mundada ...Respondents

AND

CRIMINAL APPLICATION NO. 1216 OF 2023

1. Arunkumar s/o Somnath Mundada
2. Sharda w/o Arunkumar Mundada
3. Suchita d/o Arunkumar Mundada ...Applicants

versus

1. The State of Maharashtra
2. Monali w/o Sandesh Mundada ...Respondents

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Mr. Rahul G. Joshi, advocate for applicants

Mr. N.R. Dayama, A.P.P. for respondent No.1

Mr. Sachin S. Panale, advocate for respondent No.2

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

DATED : 25th FEBRUARY, 2025

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

1. Both these applications are filed for invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973, seeking quashment of first information report (for short "the F.I.R.") No. 0007 of 2022 registered with Gangapur police

station, district Aurangabad for the offences punishable under Sections 498-A, 323, 504, 506 of I.P.C. as well as the charge sheet No. 76 of 2022 i.e. R.C.C. No. 211 of 2022 pending before the learned Judicial Magistrate, First Class, Gangapur.

2. Learned advocate for the applicants pointed out the report, in which it is averred that, the marriage of the respondent No.2 i.e. informant Monali was solemnized with Sandesh, the applicant in criminal application No. 1796 of 2023 on 19.3.2020 at Aurangabad. The couple is blessed with a male child. The applicant Sandesh was serving in Dubai at the time of marriage and thereafter also.

3. The applicant Nos. 1 and 2 in application No. 1216 of 2023 are in laws of the informant and applicant No.3 is her sister-in-law, who is serving as a teacher. It is averred in the report that all the applicants and the informant were residing under one roof. All the applicants have treated her well for 1-2 months after the marriage. After marriage, the husband of the informant could not go to Dubai because of Covid-19 pandemic. The applicants after 1-2 months of the marriage started harassing the informant saying that nothing is given in the marriage, She is not able to work properly. When she told the said fact to her husband, he did not pay any heed to her. Her husband on the say of his sister, used to harass the informant. After

marriage, for three months, mother-in-law of the informant took the mobile hand set of the informant with her when she went for delivery of another sister in-law. All the applicants were frequently taunting her. The applicant No.3 in application No. 1216 of 2023, used to say that the informant has to stay there like a servant and she has to do the work as per their say. When she communicated about the said harassment to her parents, they asked her to wait for some time so that everything will be alright in the future.

4. It is further averred in the report that in the month of September, 2020, the informant was taken by her husband to Dubai. The applicants were making phone calls to her husband and upon instigation, he was abusing her. As she was in foreign country, she bore that harassment. Even the other applicants were scrutinizing the list of purchased grocery items and questioning her as to why had she purchased such an excessive quantity of grocery items. In the month of December, 2020, the informant was sent back to India. At that time, she was pregnant. The applicants were taunting her by saying that there were many proposals of marriage for the husband of informant, who were ready to pay huge amount of dowry but they accepted the proposal of informant as they wanted a woman to do house chores and therefore, her marriage is performed with Sandesh. Hence, they were saying that she has to work as per their

say. The informant gave birth to a male child. However, her harassment was continued. Her father also convinced the applicants, but they did not pay any heed to him. It is also averred that the applicants called the brother of the informant at Aurangabad, they took out the gold and silver ornaments from her person and expelled her from the house. Subsequently, when she along with her father went to reside at her matrimonial house, the applicants demanded Rs.7,00,000/- towards the expenses incurred by them for marriage and threatened that unless she pays that amount, she cannot reside there. Thereafter also, the father of the informant went to convince her father-in-law but he did not pay any heed to him and threatened that he will publish a news in the newspaper and send him to jail and the police cannot do anything to him. The informant sent a notice to her husband and prayed for taking her for cohabitation. However, the notice is replied with false contentions. The applicants have concealed the medical documents of her and her son. Thereafter, the informant lodged the report on 28.1.2022.

5. Learned advocate for the applicant submitted that the informant is not ill-treated by any of the applicants. The cruelty as contemplated under Sections 498-A, 323, 504, 506 of I.P.C. is not establishing either from the report or from the statements of the witnesses. He submitted that the informant is not willing to cohabit

with the applicant - Sandesh. She had lodged the false report. He pointed out the notice sent by the informant which was replied by the applicant - Sandesh. He submitted that the alleged demand of Rs.7,00,000/- was never made by the applicants. No specific date is stated either in the report or in the statements of the witnesses as to when that amount of Rs.7,00,000/- was demanded. The other allegations which are made in the report, were not mentioned in the notice sent by the informant to her husband. All the allegations are false and not constituting the offences punishable under Sections 498-A, 323, 504, 506 of I.P.C. He submitted that if the applicants are directed to face the trial in such a situation certainly it would be an abuse of process of the court. He therefore, prayed to exercise the inherent powers under Section 482 of Cr.P.C. and quash the report as well as the charge sheet filed against the applicants.

6. Learned A.P.P. for respondent No.1 State has strongly opposed the applications and submitted that within two years of the marriage, report has been lodged. Even after the informant was blessed with a male child the applicants continued to treat her with cruelty by demanding an amount of Rs.7,00,000/- to the informant. There are serious allegations of illegal demand and harassment on the part of the applicants. There is no legal ground to quash the said report and the charge sheet. It is lastly prayed to reject the

applications.

7. Learned advocate for respondent No.2-informant submitted that the name of the applicants are mentioned in the report. They have treated the informant with cruelty continuously from the date of marriage till the lodging of the report. There are serious allegations of demand of Rs.7,00,000/- which constitute the offence of cruelty under Section 498-A of I.P.C. He submitted that considering the period of cohabitation of the informant with her husband, though report is not immediately lodged, the harassment was continued for years together. He submitted that the essential ingredients of Section 498-A of I.P.C. are establishing against the applicants. Therefore, he prayed to reject the application.

8. 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**, wherein 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. In the case of State of **Andhra Pradesh vs. Golconda Linga Swamy; (2004) 6SCC 522**, the Hon'ble Supreme court held that where an FIR did not disclose the commission of an offence without anything being added or subtracted from the recitals thereof, the said FIR could be quashed.

11. It is averred in the report that after 1-2 months of the marriage, the applicants were insulting the informant by saying that she is not able to work properly and nothing was given to them in the marriage. Her husband also did not intervene and was convinced by his parents and sister. As per the report, in the month of September, 2020, i.e. within six months of the marriage, she was taken to Dubai. She conceived and for delivery she came back. Though it is alleged that she was harassed by abusing, there is no such supportive

evidence about it. Another incident, which the informant alleged is that her brother was called and her gold and silver ornaments were taken away and she was expelled from the house. But when the said incident took place is not stated either in the report or in the statements of the witnesses.

12. Another incident which informant has stated is that when she went for cohabitation she was not taken in the house and Rs.7,00,000/- i.e. the expenses of marriage were demanded. Thereafter again, her parents and other relatives went to convince the father-in-law of the informant, at that time, he threatened them that he will send them to jail. But when those incidents took place is also not cleared either from the report or the statements of the witnesses.

13. Lastly the notices are exchanged between the informant and her husband and thereafter, the report is lodged. There are omnibus and vague allegations of alleged cruelty made against the applicants. The incidents of alleged harassment are general in nature and those are not certain and specific. If the report and the charge sheet alongwith the above stated reasons are considered together, then it does not establish the essential ingredients of cruelty as contemplated under Sections 498-A, 323, 504, 506 of I.P.C. which

are invoked against the applicants. In such a situation, it would not be just and proper to compel the applicants to face the trial under Section 498-A, 323, 504, 506 of I.P.C. It would be certainly the abuse of process of the court. We are, therefore, inclined to allow the applications. Hence, the following order:-

O R D E R

- I. The applications are allowed.
- II. The F.I.R. No. 0007 of 2022 registered with Gangapur police for the offences punishable under Sections 498-A, 323, 504, 506 of I.P.C. as well as the charge sheet No. 76 of 2022 i.e. R.C.C. No. 211 of 2022 pending before the learned Judicial Magistrate, First Class, Gangapur, are quashed.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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