



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

11 CRIMINAL APPLICATION NO. 2661 OF 2022

1. Umakant S/o Ramling Mathpati,
Age : 72 Years, Occ. Nil,
R/o. Sitaramnagar, Latur
(Father-in-law)
2. Mangalabai W/o Umakant Mathpati,
Age : 65 Years, Occ. Household,
R/o. As above (Mother-in-law)
3. Ashok s/o Umakant Mathpati,
Age : 39 Years, Occ. Service,
R/o. As above (Husband)
4. Deepak S/o Umakant Mathpati,
Age : 75 Years, Occ. Service,
R/o. As above (Brother-in-law)
5. Ashwin S/o Umakant Mathpati,
Age : 75 Years, Occ. Service,
R/o. As above (Brother-in-law)
6. Sonali W/o Deepak Mathpati,
Age : 40 Years, Occ. Household,
R/o. As above (Sister-in-law) ... Applicants

VERSUS

1. The State of Maharashtra,
Through Officer in charge,
Mudkhed Police Station,
Nanded.
2. Shivkanya W/o Ashok Mathpati,
Age : 31 Years, Occ. Housewife
R/o. Sitaram Nagar, Latur at present
C/o Virayyappa Sarayappa Mathpati,
At Wasari, Tal. Mudkhed,
District Nanded. .. Respondents

.....
Advocate for Applicant : Mr. Amit A. Yadkikar
APP for Respondent/State: Mr. V. K. Kotechya
Advocate for Respondent No.2 : Mr. R. B. Narvade Patil
....

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

DATED : JANUARY 10, 2025

ORDER:-

1. The present application has been filed initially for quashing the First Information Report vide Crime Register No. 165 of 2022 dated 27.07.2022 registered with Mudkhed Police Station, Nanded and by way of amendment for quashing the proceeding bearing Regular Criminal Case No. 103 of 2022 pending before the learned Judicial Magistrate First Class Mudkhed, District Nanded for the offences punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code.
2. Heard the learned counsel for the applicants, learned A.PP for Respondent No.1 State and learned counsel for respondent No.2.
3. The learned Advocate appearing for the applicants has taken us through the contents of the First information Report as well as the entire charge sheet. He submits that though the husband had filed divorce petition within a period of 35 days of marriage, it was rejected being premature, however, lateron he filed another petition

i.e. Petition No. A-371 of 2021 before the Family Court, Latur and the said petition has been allowed on 15.11.2024 wherein observation has been made that the stay of the respondent-wife is only for three days after the marriage. He further submits that taking into consideration the contents of the First Information Report as alleged, the offences are not made out and therefore, it would be unjust to ask the applicants to face the trial.

4. The learned Advocate for the respondent No.2-wife submits that in the First Information Report, all the details have been given and specific role has been attributed to each of the applicants. The stay of respondent No.2 in her matrimonial home was for one and half years and when she had come to celebrate 'Dipawali' festival of 2021 with her parents, at that time the applicants had refused to take her back stating that unless she brings dowry of Rs. 5,00,000/- and household articles. She would not be allowed to cohabit. The wife has also filed proceeding under the Protection of Women From Domestic Violence Act, 2005 and it is pending. The learned Advocate for respondent No.2 submits that he is not aware as to whether respondent No.2 has preferred any appeal challenging the decree passed by the Family Court, Latur or not, but now when the charge sheet is pending before the learned Magistrate, let the trial be held.

5. At the outset, we would like to say that at present there appears

to be a decree for divorce in favour of the husband, but still the appeal period has not come to an end. The said decree was passed on 15.11.2024 and also the fact that the present proceedings are pending since prior to the decree. We may not then take into consideration the observations of the learned Family Court Judge as the decree has not attained finality. We would like to consider the present application on its own merits and the facts.

6. Perusal of the First Information Report and the fact which is not in dispute is that the present respondent No.2 got married to applicant No.3-husband on 13.08.2020 which was in the period of lock down due to pandemic situation Covid-19. According to respondent No.2, her paternal uncle had given an amount of Rupees Ten Lakhs to the maternal uncle of her husband, who, in turn, had given that amount to her brother-in-law and also had given some domestic articles. She then states that she was treated properly for about six months, but thereafter all the applicants, who were residing together, started harassing her. She has specifically stated that in 2021 her mother-in-law and sister-in-law and her husband started saying that she is unable to do household work, unable to cook food, she has not brought dowry and they were abusing her because of which she felt that she is harassed mentally and physically. According to her, she had conveyed the harassment to her father-in-law, brother-in-laws and husband, but they supported mother-in-law and sister-in-law of the

husband and then insisted that she should bring amount of Rs 5,00,000/- and domestic articles. On that count they also started harassing her mentally and physically. She then states that when she had gone to celebrate Dipawali festival in the year 2021 with her parents, she told the said fact to her parents. Thereafter her parents, brother and son-in-law of her sister went to her matrimonial home and tried to settle the dispute, however, there was no response. Therefore, she started residing with her parents. Even the settlement was tried through the President, Tanta Mukti. At that time it was told by the applicants that unless their demands are fulfilled, they will not respond.

7. Thus, taking into consideration the contents of the First Information Report, her supplementary statement recorded on 28.07.2022 and the statement of the witnesses which are on the same line, it can be seen that she has used words मानसिक व शारीरिक छळ, but the details are not given. If she wanted to say that she had resided there for one and half years out of which six months were happy marriage life for her, then while explaining the rest of the years it cannot be in one paragraph. The role attributed to applicant Nos. 2 and 6 is on account of trifle grounds i.e. she is unable to cook food and has not brought dowry. For what purpose the amount of Rs. 5,00,000/- was demanded has not been stated. It is not her case that it was the remaining amount of dowry. Charge sheet does not show

any evidence regarding handing over amount of Rupees Ten Lakh.

The father of respondent No.2 has not stated that at the time of settlement of marriage particular amount was settled as dowry.

8. Thus, taking into consideration the contents of the First Information Report, certainly the ingredients of the offence under Sections 498-A of the Indian Penal Code are not made out and therefore, this is a fit case where powers under Sections 482 of the Code of Criminal Procedure are required to be exercised. Hence, the following order.

ORDER

- (i) The application stands allowed.
- (ii) The proceeding in Regular Criminal Case No. 103 of 2022 pending before the learned Judicial Magistrate, Mudkhed, District Nanded arising out of First Information Report vide C.R. No. 165 of 2022 dated 27.07.2022 registered with Mudkhed Police Station, District Nanded for the offences punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code stands quashed and set aside against all the applicants.

(ROHIT W. JOSHI)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

Y.S. Kulkarni