



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO.2552 OF 2023

Babasaheb S/o Tukaram Gadale and Ors. ...Applicants
-VERSUS-
The State of Maharashtra & Anr. ...Respondents

...
Advocate for the Applicants : Mr. Amol S. Gandhi
A.P.P. for Respondent/State : Mr. S. A. Gaikwad
Advocate for Respondent No.2 : Mr. H. P. Jadhav
...

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

DATED : 19th MARCH, 2025

P. C. :

1. Not on board. Taken on board, in view of the praecipe that is given on behalf of the applicants.

2. We have already decided the matter on 7th January 2025. It was specifically observed that we were not inclined to grant any relief to applicant Nos.1 and 2 and therefore, the learned Advocate for the applicants sought instructions and made a statement for withdrawal and thereupon the application was disposed of as withdrawn as against applicant Nos.1 and 2. Now the learned Advocate for the applicants submits that he had not made that statement. We do not want to enter into that fact situation which would be taxing the memory. However,

since the learned Advocate for the applicants is now making a statement that he had not made the said statement regarding withdrawal, we are considering the matter on merits as against applicant Nos.1 and 2 also.

3. Taking into consideration the contents of the FIR, the main allegations are of course against the husband and the offence under Section 377 of Indian Penal Code is stated to have been committed by him. As regards applicant Nos.1 and 2, who are the parents-in-law, the other offences would remain i.e. Sections 498-A, 323, 504, 506 and 34 of the Indian Penal Code and Section 4 of Dowry Prohibition Act. We are considering the contents of the FIR as well as the statements of the witnesses under Section 161 of the Criminal Procedure Code. In the FIR it has been stated by respondent No.2 that she used to convey the parents-in-law in respect of harassment given by her husband, however, they were not paying any heed and were rather insisting that she should act as per the wishes of her husband. But then further threat, that is stated to have been given, is that if she does not act as per the wish of the husband, then the husband would be required to perform second marriage. This threat would definitely be a mental harassment. Then she states about demand of Rs.25,00,000/- for showroom to be constructed at Pune for husband and for that purpose applicant Nos.1

and 2 as well as the husband were insisting that the agricultural land which is near the road standing in the name of her father should be sold and the amount of Rs.25,00,000/- should be given to them. She has stated that about 15 Tolas of gold as well as cash of Rs.4,50,000/- was given. The statement of the father is on the same line. Further she states that when her father had gone for persuading the matter at the matrimonial home of respondent No.2 on 14.05.2023 then the present applicant Nos.1 and 2 had assaulted respondent No.2 and had also abused him. Thus, taking into consideration these contents, certainly we do not take this to be a fit case where we should exercise our powers under Section 482 of the Criminal Procedure Code.

4. Now, the question would be when we had by our order dated 7th January 2025 allowed the application as against applicant No.3 i.e. brother-in-law who is taking education almost having similar allegations then whether we can discriminate present applicant Nos.1 and 2, then the answer would, when the elders are there, it is less likely that the brother-in-law would interfere and make any kind of demand. So also his status as student was taken into consideration. With these observations, we modify our order dated 7th January 2025 as follow:-

Application stands dismissed as against applicant No.1- Babasaheb S/o. Tukaram Gadale and applicant No.2-Triveni W/o Babasaheb Gadale.

5. The rest of the order to remain as it is.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

A.G.Narwade