



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

CRIMINAL APPLICATION NO. 2706 OF 2023

- 1] Shaikh Salman Shaikh Lal.
- 2] Mallekhabhi Shaikh Lal.
- 3] Shaikh Lal Shaikh Yusuf.
- 4] Shaikh Altaf Shaikh Lal. **... Applicants**

Versus

- 1] The State of Maharashtra.
- 2] Shaikh Afrin Shaikh Salman. **... Respondents**

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Mr. N. L. Chaudhari, Advocate for Applicants.

Mr. S. A. Gaikwad, APP for Respondent No.1 / State.

Mr. Rahul O. Awasarmol, Advocate for Respondent No.2.

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

DATE : 21st February, 2025.

ORDER: (Per Sanjay A. Deshmukh, J.)

. Heard the learned advocates for the respective parties.

2 This is an application under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C.") for quashing the proceedings in R.C.C. No.292 of 2023, pending in the Court of the learned Judicial Magistrate First Class, Bhokardan, arising out of FIR

bearing C.R. No.372 of 2023, dated 6th July, 2023, registered with Bhokardan Police Station, District Jalna, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code (for short "IPC").

3 After hearing the learned Advocates for both the sides, when this Court expressed disinclination to grant any relief to applicant No.1, the learned counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant No.1. Leave granted.

4 Applicant Nos.2 and 3 are the in-laws and applicant No.4 is the brother-in-law of the informant.

5 It is averred in the report by the informant that she married with the son of applicant Nos.2 and 3 on 19th November 2020. She gave birth to a son namely Arshan. The informant alleged in the report that initially for three months she was treated well. Thereafter, the applicants and her husband started to harass her. She felt that after some time wise counsel would prevail on her husband. But her husband continued harassment. He demanded Rs.5,00,000/- to her for construction of house. He used to beat her. The informant used to tell that fact to her father. Her father and some respected persons in the society also tried to convince her husband. The allegation against applicant No.2 (mother-in-law) is that she was also ill-treating the

informant by saying that the informant is not able to work properly and she should not stay in their house. Therefore, the informant left that house and came to her parent's house at Bhokardan. Later, her husband brought her back to the matrimonial house. It is alleged that thereafter, applicant Nos.3 and 4 abused and slapped the informant for not bringing money. They also threatened to kill her and expelled her from the house. When her husband returned home, he pronounced *Talaq* for three times. Therefore, she lodged the report.

6 The learned counsel for the applicants submitted that the applicants are falsely implicated in the crime. The vague allegations are made against the applicants. There is no specific incident stated in the report by the informant as to when the applicants treated her with cruelty. Omnibus allegations are made against the applicants, which are not establishing the essential ingredients of Section 498-A of the IPC. The statements of witnesses are also vague. If the applicants are directed to face the trial, in such situation, they will certainly suffer. He lastly prayed to allow the application.

7 The learned APP for the State strongly opposed the application and submitted that the applicants are involved in the serious crime. The names of the applicants are mentioned in the report. All the applicants are residing under one roof. They have

committed anti-social crime. He lastly prayed to reject the application.

8 The learned counsel for respondent No.2 also strongly opposed the application and submitted that the applicants are involved in the serious crime. Their names are mentioned in the report. All the applicants have treated the informant with cruelty. Applicant No.2 ill-treated the informant by saying that the informant is not able to work properly and she should not stay in their house. Applicant Nos.3 and 4 abused and slapped the informant for not bringing money. They threatened to kill her and finally expelled her from the house. He lastly prayed to reject the application.

9 Perused the report and the charge-sheet.

10 It would be proper to rely on the judgment of the Honourable Supreme Court in the case of ***Iqbal alias Bala and others Vs. State of Uttar Pradesh and others***, reported in, **(2003) 8 Supreme Court Cases 734**, in which it is held as under:-

“15.

9. *At this stage, we would like to observe something important. Whenever an accused comes before the court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the*

FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the court owes a duty to look into the FIR with care and a little more closely.

10. *We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, 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.”*

11 The allegations against the applicant No.2 is that she teased the informant by saying that the informant is not able to work properly and she should not reside with them. Therefore, the informant left the matrimonial house. Thereafter, the informant was again brought back to the house of the applicants by her husband. Thereafter, applicant Nos.3 and 4 abused the informant as she did not bring that amount and expelled her from the house and her husband said *Talaq* for three times. Therefore, she lodged the report. From

the face value of the report and the statements of the witnesses, it is crystal clear that the report is vague and omnibus allegations are made against applicant Nos.2 to 4. As to when applicant Nos.3 and 4 demanded that amount and abused and slapped the informant, is not specifically stated by her in the report. The main allegations are made against the husband of the informant. The application of the husband is withdrawn. After considering the report and the statements of the witnesses, we are of the view that there is no evidence against applicant Nos.2 to 4 to establish the cruelty as contemplated by Section 498-A of the IPC. In such circumstances, if the applicants are compelled to face the trial, it would certainly be an abuse of the process of Court. We are therefore, inclined to allow the application by exercising our inherent powers under Section 482 of the Cr.P.C. The application, therefore, deserves to be partly allowed. Hence, the following order:-

ORDER

- I. The application of applicant No.1 stands dismissed as withdrawn.
- II. The proceedings in R.C.C. No.292 of 2023, pending in the Court of the learned Judicial Magistrate First Class, Bhokardan, arising out of FIR bearing C.R. No.372 of 2023, dated 6th July, 2023, registered with Bhokardan Police Station, District Jalna, for the

offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code (for short "IPC"), stands quashed to the extent of applicant Nos.2 to 4 only.

III. The application stands disposed of.

[SANJAY A. DESHMUKH, J.] [SMT. VIBHA KANKANWADI, J.]

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