



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.3244 OF 2024

- 1) Samadhan S/o Bapu Payal,
Age-42 years, Occu:Labour,
 - 2) Mandakini W/o Bapu Payal,
Age-65 years, Occu:Housewife,
- R/o-Ekata Nagar, Diksal, Kallamb,
Tq-Kallamb, Dist-Osmanabad.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Police Inspector,
Kallamb Police Station,
Tq-Kallamb, Dist-Osmanabad,
- 2) Seema W/o Samadhan Payal,
Age-32 years, Occu:Housewife,
R/o-Ekata Nagar, Diksal, Kallamb,
Tq-Kallamb, Dist-Osmanabad.

...RESPONDENTS

...
Ms. Sheetal V. Salunke Advocate for Applicants.
Mr. G.A. Kulkarni, A.P.P. for Respondent No.1.
Ms. Harsha R. Lomate Advocate for Respondent No.2.
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**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 18th FEBRUARY, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed for quashment of the First Information Report (for short "the FIR") vide Crime No. 494 of 2023 registered with Kallamb Police Station, Taluka-Kallamb, District-Osmanabad on 18th November 2023, for the offence punishable under Sections 498-A, 313, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2. It is not in dispute that applicant No.1 got married to respondent No.2 on 27th May 2016 and they are blessed with a daughter who is aged five years on the date of the FIR. Applicant No.2 is the mother-in-law of respondent No.2.

3. Applicant No.1 and respondent No.2 have entered into compromise and the compromise deed has been recorded. There was some defect in the earlier compromise deed, therefore, fresh compromise deed has been prepared and submitted. As per the compromise, respondent No.2 states that she had given the FIR due to misunderstanding and she has settled the matter and started living together with the husband, mother-in-law. Their daughter is along with them. It is stated that they are

residing together since 16th August 2024, at the matrimonial home and therefore, she has no objection for quashing the FIR.

4. Here, it is to be noted that the offence is also registered under Section 313 of the Indian Penal Code and therefore, taking into consideration the seriousness of the offence, we were required to go into the facts in respect of the case. It is stated by the informant that she got the knowledge about her second pregnancy on 1st June 2023 and accordingly she informed it to her husband. But at that time the husband always used to say that she should consider that if she delivers a daughter he would not tolerate and therefore she should get the abortion done and if she keeps the pregnancy then she should have son. She then states that on 4th August 2023 though she had no desire still around 10.00 a.m. her husband compelled her to take some poisonous tablets for abortion in front of her mother-in-law. Thereafter both the applicants went out of the house. After some time informant felt giddiness and started bleeding. Her daughter came after a while from a school and after considering mother's situation, she called neighbours. Neighbour Kishor Magar admitted her to Government Hospital, Kallamb. Her husband was at Latur at that time. He reached Government Hospital, Kallamb

after about two hours. By that time situation of the informant became serious and she was then referred to Chirayu Hospital, Dharashiv where she had taken treatment for about seven days. Her husband had then quarreled with the hospital authorities and he went away without paying bill of the hospital.

5. Now, learned Advocate for the applicants points out the medical case record of Kallamb Hospital, where it is stated that informant was admitted in unconscious state by her father and the history that was given, was sudden fall while doing work at home. Here, it is to be noted that the investigation is still going on and evidence would have been collected from Chirayu Hospital, Kishor Magar etc. However, the available document is tried to be relied by the applicants for contending that at the time of lodging the FIR due to misunderstanding the story has been concocted. Here, now the husband and wife have united together. They have a daughter aged five years and therefore, there is no hurdle for us to exercise our powers under Section 482 of the Code of Criminal Procedure. We still observe that if the said story that has been given in the FIR was untrue taking into consideration the medico legal papers, then respondent No.2 should be warned. She cannot take revenge against the husband

in such a way and if the contents of the FIR are true, then it can be certainly said that especially the husband is now utilizing the compromise to save himself.

6. Any way, at the cost of repetition we would say that since the husband and wife are united and want to live happily, we would be exercising our powers under Section 482 of the Code of Criminal Procedure. However, at the same time, we impose cost, which is of course required to be paid by applicant No.1. Hence, we pass following order:-

ORDER

(I) The Application stands allowed.

(II) The the First Information Report vide Crime No. 494 of 2023 registered with Kallamb Police Station, Taluka-Kallamb, District-Osmanabad on 18th November 2023 for the offence punishable under Sections 498-A, 313, 323, 504, 506 read with Section 34 of the Indian Penal Code, stands quashed and set aside as against applicant No. 1-

Samadhan S/o Bapu Payal and applicant No.2 -
Mandakini W/o Bapu Payal.

(III) Applicant No.1 to deposit cost of Rs.25,000/-
with the Registry i.e. the Committee consisting of
learned Registrar (Administration) of the High
Court, Bench at Aurangabad and the Medical
Officer of the High Court Medical Dispensary,
Aurangabad, within four weeks.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/FEB25