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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

19 CRIMINAL APPLICATION NO. 2790 OF 2023

NANDKUMAR GORAKSHANATH KHAIRE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr.Ketan Pote h/f Mr.A.G.Ambetkar, Advocate for the Applicants.
Ms.R.P.Gour, APP for the Respondent/State.
Mr.R.S.Kasar, Advocate for Respondent No.2.

(CORAM : SMT. VIBHA KANKANWADI AND
SUSHIL M. GHODESWAR, JJ.)

DATE : 2 SEPTEMBER 2025

PER COURT :

1. The present application has been filed for quashing the proceedings in RCC No.498/2023 pending before the learned J.M.F.C., Ahmednagar arising out of FIR vide CR No.196/2022 registered with Tophkhana Police Station, Ahmednagar for the offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of the IPC.

2. Heard the learned Advocate Mr.Pote h/f Mr.Ambetkar for the Applicants, learned APP Ms.Gour and the learned Advocate Mr.Kasar for respondent No.2.

3. In order to cut short, it can be stated that all of them, argued in support of their respective contentions.

4. The fact which is not in dispute is that respondent No.2 got married to Applicant No.1 on 29.11.2012. Applicant No.1 expired on 04.06.2025 and the death certificate is on record. Therefore, the application as well as the proceedings against him stand abated. The Applicant Nos. 2 and 3 are the parents of the husband. Applicant No.4 is the brother, Applicant No.6 is sister and Applicant Nos. 7 and 8 are the maternal uncles of the husband. Applicant No.5 is the wife of Applicant No.4. Applicant Nos.7 and 8 are residing at a different place and Applicant No.6 is the married sister in law residing at Mumbai. It is also not in dispute that the FIR came to be filed almost after 9 ½ years of marriage and as per the FIR, for about 7 years, after the marriage, respondent No.2 states that she was residing with Applicant Nos.1 to 6. She has not given the date of marriage of the Applicant No.6.

5. It is alleged in the FIR that though the marriage had taken place on 29.11.2012, she was treated properly for about 2 to 3 months

only by the applicants and thereafter, the applicants started harassing her mentally and physically. The applicants used to say that the informant should also bring the amount / food grains and other articles from her parents like applicant No.5. When she has made that statement, she has not quoted as to how much amount was demanded and how frequently there was demand for the food grains and other articles. She has also not stated as to how many times during the period of 7 years, for which she resided with applicant Nos. 1 to 5, and applicant No.5 had brought the amount and the food grains from her parents. Thus, whatever those allegations are seem to be vague, not only in respect of the demands, but as to how exactly she was harassed to make that demand. The demand cannot be in cores. Further, there is only the use of word “मानसिक आणि शारीरिक छळ” (mental and physical harassment). No instances have been quoted so as to assist as to whether that incident whenever caused monthly or / and physical harassment to the informant amounting to cruelty as defined under Section 498-A of the IPC. Then it is stated that the Applicant Nos. 7 and 8, who are the maternal uncles of the husband, also used to say that she should bring amount from her parents and then they used to assault her by kicks and fists and abuse her. Since when such incidences

were happening and for how many times, it happened, how much amount was demanded, are all kept vague.

6. The Informant then states that thereafter her parents in law i.e. Applicant Nos. 2 and 3 asked her as well as her husband to reside separately from them since 16.06.2019. The matrimonial home of respondent No.2 is behind Aathare Patil Public School, Savedi, Ahmednagar. However, she herself and the original Applicant No.1 started residing at Bolhegaon since 16.06.2019 and then she states that thereafter also, the applicant Nos. 2 to 8 used to instigate the original applicant No.1 by saying that the Informant is mentally challenged and therefore he should leave her and his second marriage would be performed. The original applicant No.1 therefore had driven her out of the house on 08.02.2021. Here, in fact when she has lodged the FIR, she has given the address of Bolhegaon. She uses the term that she was driven out of the house, but then the continue statement states that the applicant No.1 started residing with his parents. So, exactly, who had driven whom out of the house, is a question. It appears that she continued to stay in the same house at Bolhegaon and then she says that their son Om was also taken by the original applicant No.1 with

him and she was not allowed to meet him. Now in view of the change in the circumstance, the proceedings have abated as against Applicant No.1. The subsequent event and driving her out of the house on 08.02.2021 was against the husband. There is absolutely no evidence in the charge sheet to show that applicant Nos. 2 to 8 had instigated applicant No.1. The residents of respondent No.2 and the residents of applicant Nos. 2 to 5 got separated on 16.06.2019 itself and therefore the FIR lodged on 20.03.2022 would be beyond the period of limitation as against the applicant Nos. 2 to 8. Apart from the merits also, there is absolutely no evidence to even *prima facie* hold that case is made out for the ingredients of the offence punishable under Section 498-A of the IPC. Rest of the sections are non cognizable and therefore this is a fit case where we should exercise our powers under Section 482 of the Cr.P.C.

7. The application stands allowed. The proceedings in RCC No.498/2023 pending before the learned J.M.F.C. Ahmednagar, arises out of FIR dated 20.03.2022 vide CR No.196/2022, registered with Tophkhana Police Station, Ahmednagar for the offence punishable under Sections 498-A, 323, 504, 506 r/w 34 of the IPC stands quashed

and set aside as against applicant Nos.2 to 8 namely Gorakshanath s/o Shankar Khaire, Smt.Shobha Gorakshanath Khaire, Santosh Gorakshanath Khaire, Sonali Santosh Khaire, Riya Rohit Jawharkar, Dnyaneshwar Nivruttirao Hire, Macchindranath s/o Nivrutti Hire. The proceedings stand abated as against applicant No.1 Nandkumar s/o Gorakshanath Khaire.

(SUSHIL M. GHODESWAR, J.) (SMT. VIBHA KANKANWADI, J.)