



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

CRIMINAL APPLICATION NO. 3079 OF 2023

1. Sachin Madhukar Wagh- **withdrawn**
Age : 32 years, Occ : Service,
2. Madhukar Ramchandra Wagh
Age : 62 years, Occ : Nil,
3. Vithabhai Madhukar Wagh
Age : 61 years, Occ : Household,
4. Nitin Madhukar Wagh
Age : 38 years, Occ : Service

1 to 4 are R/o Plot No.15, Ahirenagar,
Behind Nanavati Petrol Pump,
Collector Patta, Malegaon,
Dist. Nashik

5. Ujjwala Yuvraj Patil
Age : 37 years, Occ : Household,
6. Yuvraj Trambak Patil
Age : 42 years,

5 & 6 are R/o Shikshak Colony,
Dhule Road, Chalisgaon.

..APPLICANTS

-VERSUS-

1. The State of Maharashtra
Through Chalisgaon Police Station,
Chalisgaon.
2. Shweta Sachin Wagh
Age : 28 years, Occ : Household,
R/o Plot No.8, Shiv Colony,
Old Malegaon Road,
Behind Bungalow of K.K. Mus, Chalisgaon.

..RESPONDENTS

Advocate for the applicants : Mr.Dipesh D. Pande
APP for Respondent- State : Mr. S.A. Gaikwad
Advocate for respondent No.2 : Mr. Sohail Subhedar (appointed)

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

DATED : 20th JANUARY, 2025.

JUDGMENT (PER ROHIT W. JOSHI, J.) :

. The present application is filed under Section 482 of the Code of Criminal Procedure (Cr.P.C.), *inter-alia* praying to quash F.I.R. No.104/2022 dated 14.03.2022 registered with Chalisgaon Police Station, Chalisgaon, for the offences punishable under Sections 498-A, 323, 504, 506 and 406 read with Section 34 of the Indian Penal Code (I.P.C.) and Regular Criminal Case No.228/2022 pending on the file of the learned Judicial Magistrate, First Class, Chalisgaon. The said FIR is registered on the basis of information provided by respondent no.2.

2. Respondent No.2 is wife of applicant no.1. Their marriage was solemnized on 02.06.2017. They are blessed with two children from the wedlock. After her marriage with applicant no.1, respondent no.2 moved to her matrimonial house at Malegaon, Dist. Nashik. However, her husband-applicant no.1 was in employment at Pune, and therefore, he had moved to Pune alone for the purpose of his employment.

3. Respondent No.2 has lodged FIR stating that after her husband had moved to Pune, he used to be a very busy with his work. Respondent No.2 stayed in matrimonial house at Malegaon. Applicant no.1 could not find time even to talk to her on telephone, since he was very busy with his work. She has alleged that thereafter her in-laws and sister-in-law and her husband started making complaints with respect to presents offered at the time of marriage. She alleges that they started harassing her physically and mentally on this count. She states that in July, 2017, while she was going to Pune along with father-in-law and mother-in-law, she had received news about sad demise of her cousin. Due to which she was constantly getting telephonic calls from her relatives on parental side. However, applicant no.2 informed applicant no.1 – husband that respondent no.2 was talking to some unknown person throughout the night. She alleges that due to this, applicant no.1 started doubting her character and therefrom he also started physical and mental harassment. She has stated that on the demand of applicant no.1-husband, her father has given a sum of Rs.4,50,000/- to him for purchasing flat at Pune and despite fulfilling the demand once the in-laws were again asking for more money and used to instigate applicant no.1 to maintain pressure so that additional money can be extracted from his father-in-law. She has alleged that her husband had no interest in marital relationship and was only interested in dowry.

She speaks about an incident in December, 2020 when she was carrying three months pregnancy. The allegation is that the in-laws wanted her to terminate the pregnancy against her wish and on refusal, they had driven her out of the matrimonial home after retaining all her ornaments. She alleges that she was also abused and beaten by in-laws during the said incident. The last allegation is with respect to incident dated 24.10.2021, it is alleged that all the applicants had come to her parental house, where she was staying and immediately started abusing and beating her and raised a demand for payment of Rs.5,00,000/-. On the basis of such allegations crime came to be registered against the applicants as aforesaid on 14.03.2022 and upon completion of investigation, Respondent No.1 has filed Charge-Sheet No.74/2022 on 31.05.2022. Pursuant to the said charge-sheet, Regular Criminal Case No.228/2022 is registered against the applicants. The applicants have challenged the said FIR, Charge-Sheet and have also prayed for quashing Regular Criminal Case.

4. Learned counsel for the applicants has not pressed the application of applicant no.1. The application stands disposed of with respect to applicant no.1 as withdrawn vide order dated 13th September, 2023.

5. As regards applicant nos.5 and 6, applicant no.5 is married sister-in-law and applicant no.6 is her husband. They are not residing with other applicants. The allegation against them is that they used to visit the parental house of applicant no.5 i.e. matrimonial house of respondent no.2 intermittently and illtreat and harass respondent no.2 mentally as well as physically. It is alleged that they used to instigate the husband to press for demand of money and to harass respondent no.2 mentally and physically in order to exert pressure for fulfillment of monetary demand.

6. It appears from the FIR that respondent no.2 had shifted to Pune to reside with her husband. Allegation with respect to demand of Rs.4,50,000/- is that the said demand was made by husband at Pune. Applicant Nos.2 to 4 are residing at Malegaon, Dist. Nashik. The allegations against applicant nos.2 to 6 are omnibus in nature. At all places in the FIR collective role is attributed to applicant nos.2 to 6. Respondent No.2 has not been able to attribute any individual role to applicant nos.2 to 6.

7. Respondent No.2 has alleged that all the applicants had been to her parental house on 24.10.2021 in order to raise demand of Rs.5,00,000/- and had abused and beaten her in presence of her father

and brother. It will be pertinent to mention that immediately thereafter on 29.10.2021, she has filed domestic violence case in which there is absolutely no mention about the alleged incident stated to have occurred on 24.10.2021. Other allegations as stated above are omnibus against applicant nos.2 to 6. Likewise, particulars of alleged illtreatment, such as tentative period, as also mode and manner of same is not mentioned in the FIR. The silence with respect to alleged episode dated 24.10.2021 in the domestic violence case filed on 29.10.2021 speaks volumes about the intent of respondent no.2. Perusal of the FIR indicates that the principal grievance of respondent no.2 is against her husband. She has also shifted to Pune to reside with applicant no.1-her husband. The matrimonial discord between applicant no.1 and respondent no.2 assumed extreme proportions resulting in initiation of litigation pertaining to domestic violence case, restitution petition and lastly criminal prosecution under Section 498-A of the IPC. The contents of FIR and statements recorded during the course of investigation clearly indicate that respondent no.2 has unnecessarily resorted to over implication. The in-laws, who were not residing together with respondent no.2 and her husband, have been unnecessarily implicated in the matter without there being any specific allegations against them. Learned counsel for the applicant has rightly referred to and relied upon the judgments viz:- ***Geeta Mehrotra Vs.***

State of U.P reported in (2012) 10 SCC 741, *Preeti Gupta and others Vs. State of Jharkhand and others* reported in (2010) 7 SCC 667, *G.V Rao Vs. L.H.V. Prasad and others* reported in (2000) 3 SCC 693 and *Anil Baban Rathod and others Vs. The State of Maharashtra and another* reported in 2021 All M.R. (Cri.) 1455.

8. We are in agreement with learned counsel for the applicants that the principles laid down in the above cases are squarely applicable to the present case. We have appreciated the contents of FIR and statements recorded during the course of investigation with due care and caution. We have taken into consideration other attending circumstances as is directed by the Hon'ble Supreme Court in the case of *Mamidi Anil Kumar Reddy Vs. The State of Andhra Pradesh and others* reported in 2024 SCC Online SC 127. Having regard to the totality of circumstances emerging from the material on record, we are of the considered opinion that continuation of prosecution against the applicant nos.2 to 6 will not serve any fruitful purpose. It will rather amount to abuse of legal process. Hence we pass the following order :-

ORDER

- (i) The application is partly allowed.
- (ii) The application with respect to applicant no.1 - Sachin Madhukar Wagh stands disposed of as withdrawn.

(iii) F.I.R. No.104/2022 dated 14.03.2022 registered with Chalisgaon Police Station, Chalisgaon, for the offences punishable under Sections 498-A, 323, 504, 506 and 406 read with Section 34 of the Indian Penal Code and Regular Criminal Case No.228/2022 pending on the file of the learned Judicial Magistrate, First Class, Chalisgaon are hereby quashed against applicant no.2- Madhukar Ramchandra Wagh, applicant no.3 - Vithabhai Madhukar Wagh, applicant no.4 - Nitin Madhukar Wagh, applicant no.5 - Ujjwala Yuvraj Patil and applicant no.6 - Yuvraj Trambak Patil.

(iv) The fees of learned Advocate Mr. Sohail Subhedar appointed to represent respondent no.2, is quantified at Rs.5,000/- (Rupees Five Thousand), to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

sga/