



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3252 OF 2022

1. Subhash Mahadeo Bade
**(As per order dated 18.10.2022
application is dismissed as against
applicant No.1)**
2. Mahadeo Maruti Bade
3. Sau. Ramkunwar Mahadeo Bade
4. Ashok Mahadeo Bade
5. Alka Kundalik Pakhare **.. Applicants**

Versus

1. The State of Maharashtra
Through its Police Inspector,
Talwada Police Station, Talwada,
Taluka Georai, District Beed.
2. Sau. Alka w/o Subhash Bade **.. Respondents**

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Mr. K. D. Bade Patil, Advocate for the applicants.
Mr. A. D. Wange, APP for respondent No.1/State.
Mr. S. R. Zambare, Advocate for respondent No.2.

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

DATE : 04 FEBRUARY 2025

ORDER [Per Smt. Vibha Kankanwadi, J.] :-

. Present application has been filed by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure initially for quashing the FIR bearing Crime No.175 of 2022 registered with Talwada Police Station, Taluka Georai

District Beed and later on, by way of amendment, for quashing the proceedings in R.C.C. No.344 of 2022 pending before the learned Judicial Magistrate First Class, Georai, District Beed for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code.

2. Heard learned Advocate Mr. K. D. Bade Patil for the applicants, learned APP Mr. A. D. Wange for respondent No.1/State and learned Advocate Mr. S. R. Zambare for respondent No.2. In order to cut short, it can be said that all the Advocates have made submissions in support of their respective contentions.

3. It will not be out of place to mention here that by order dated 18.10.2022 the application came to be dismissed as against applicant No.1 and, therefore, the matter has proceeded for the reliefs claimed by applicant Nos.2 to 5.

4. Applicant No.2 is the father-in-law, applicant No.3 is the mother-in-law, applicant No.4 is brother-in-law and applicant No.5 is the sister-in-law of respondent No.2. If we peruse the FIR then the allegations would show that the marriage had taken place on 13.08.2017 and the FIR has been lodged on 03.09.2022.

Thus, the marital life was of more than five years. It is then stated that immediately after one month of marriage, the informant was harassed by the applicants on the count that she should bring amount of Rs.2,00,000/- for purchase of flat and she should get her share partitioned from her father's land. She continued to suffer the harassment in hope. She also states that when she lodged the FIR, her son was aged 4 years. As regards role attributed to the applicants is that mother-in-law and sister-in-law used to instigate the husband. The husband then used to assault her under the influence of liquor. He was also taking objection if she was not opening the door of the house immediately, why the child is crying, why she had met her parents etc. She says that she was driven out of the house on 26.09.2020 as she was unable to fulfill demand. She then states that all the accused had gone to her parental home on 28.09.2020, made the demand of amount there and also stated that if she is unable to fulfill their demand, then she should give divorce. She was assaulted. Her parents were also assaulted. Thus, it can be seen that as regards present applicant Nos.2 to 5 are concerned, the allegations are omnibus. Instigation to husband to assault cannot be considered as an act of cruelty. In fact, those incidents are the regular points of dispute. When it is

asked why the door is not opened immediately, why the child is crying, why she had gone to meet her parents, of course assault cannot be a regular feature, but it would depend on the reaction of the person to whom all these aspects are conveyed. Now, it was conveyed to applicant No.1 against whom the application has been dismissed. Learned Advocate for the applicants informs that the learned Joint Civil Judge Senior Division, Beed has decreed the Hindu Marriage Petition filed by the husband against respondent No.2 on 30.06.2023 and thereby the marriage stood dissolved, however, it is a subsequent event. Another aspect to be noted is that respondent No.2 appears to have filed private complaint bearing No.501 of 2020 before the learned Judicial Magistrate First Class, Georai against the present applicants stating that they have committed offence under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code. That private complaint was filed on 29.09.2020. It is absolutely not clear by respondent No.1 that whether the present FIR is the outcome of order under Section 156(3) of the Code of Criminal Procedure. No such order appears to have been filed along with the charge-sheet. Therefore, after a period of two years, why she felt to lodge a report under Section 154 of the Code of Criminal Procedure is a question. Learned Advocate for the applicants is

therefore relying upon the decision in ***Kashinath Kutwal and Ors. Vs. The State of Maharashtra and another, [2017 ALL M.R. (Cri.) 2423]***, wherein it is held that if two FIRs are filed in respect of same incident and same occurrence, second FIR needs to be quashed. Here, respondent No.2 has not clarified as to what has happened to her private complaint. On this count also, the FIR and the proceedings need to be quashed and set aside. Hence. The following order :-

ORDER

- I) Criminal Application stands allowed.
- II) The FIR bearing Crime No.175 of 2022 registered with Talwada Police Station, Taluka Georai District Beed as well as the proceedings in R.C.C. No.344 of 2022 pending before the learned Judicial Magistrate First Class, Georai, District Beed for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code, stand quashed and set aside, as against applicant Nos.2 to 5.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm