



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3113 OF 2023

1. Saeed Aslam Kureshi
Age : 33 yrs, Occupation : Service
2. Aslam Dilawar Kureshi,
Age : 65 yrs. Occu : Business
3. Rizwana Aslam Kureshi, age: 57 yrs,
Occu: Housewife
4. Anis Aslam Kuresh, Age : 32 yrs,
Occ: Service

Applicant Nos.1 to 4 R/o 300, Ramacha Got,
Khari Vihir, Mangalwar Peth, Satara

5. Shabana Adam Palkar, age 58 yrs,
Occu. Housewife,
R/o Shaniwar Peth, Satara
Taluka & Dist. Satara
6. Shahazadi Junaid Shaikh, age 35 yrs,
Occu. Housewife R/o At Post Khed,
Taluka & District Ratnagiri

...Applicants

VERSUS

1. The State of Maharashtra
Through Police Inspector, Loni Police Station
2. Munjarin Saeed Kureshi, age 29 Years,
Occ. Self-employed, R/o C/o Faruk
Haji Abbas Ghone, Pathare Bk., Taluka
Rahata, District Ahmednagar

.. Respondents

....
Mr. Joslyn A. Menezes h/f. Mr. P. S. Paranjape for Applicants.
Mr. N. R. Dayama, A.P.P. for Respondent/State.
Mr. V. H. Dighe, Advocate for Respondent No.2.
....

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

DATED : 9th JANUARY, 2025

JUDGMENT (Per Rohit W. Joshi, J.):

1. The present application is filed under Section 482 of the Code of Criminal Procedure, 1973 challenging FIR No.0132 of 2023 registered with Loni Police Station, District Ahmednagar on 04.03.2023 under Sections 498-A, 323, 504, 506 r/w. Section 34 of the Indian Penal Code, 1860.

2. The informant is respondent No.2. She is related to the applicants as under:-

Applicant No.1: Husband

Applicant No.2 : Father-in-law

Applicant No.3 : Mother-in-law

Applicant No.4 : Brother-in-law

Applicant Nos.5 : Sister of mother-in-law

Applicant No.6 : Sister-in-law

3. The marriage of respondent No.2 with applicant No.1 was solemnized on 23.04.2018. The couple is blessed with a child, namely, Umar, who was born on 19.11.2019. Respondent No.2 is residing at her parental house since 13.08.2022.

4. Prior to lodging of the FIR impugned in the present proceeding it will be profitable to refer to two other counter FIRs lodged by applicant No.1 and respondent No.2 each other on 28.07.2022 in relation to an incident that had occurred on 27.07.2022. The FIR lodged by applicant No.1 against respondent No.2 is registered as Crime No.251 of 2022 and the counter FIR lodged by respondent No.2 against applicant No.1 is registered as Crime No.253 of 2022. Both these offences are for the offences punishable under Section 326 of the IPC. On 27.07.2022 at about 4 a.m. a quarrel had ensued between applicant No.1 and respondent No.2. Both of them have suffered stab injuries with a knife. Both parties have their own version as is mentioned in their respective FIRs. Applicant No.1 claims that respondent No.2 inflicted a stab wound under his belly while he was asleep and thereafter she herself inflicted a stab wound on her neck. Whereas the version of respondent No.2 is that applicant No.1 tried to inflict stab wound on her neck and while she was acting in self defence a stab wound was inflicted on his stomach during the fight.

5. In this backdrop, after a period of around 15 days, i.e., on 13.08.2022 respondent No.2 left her matrimonial home and since then she is residing at her parental house. The impugned FIR is lodged on

04.03.2023. The allegations in the FIR impugned in the present proceeding are that applicant No.1 used to return home in late hours at night and used to frequently talk to another lady on mobile phone and on being questioned about the same he used to initiate quarrels with respondent No.2 on some or the other pretext. Respondent No.2 has claimed that her parents and persons, who had acted as mediators in fixing their marriage, also intervened in order to explain applicant No.1 and his family members to behave properly with respondent No.2 and to treat her well. Respondent No.2 claims that even thereafter, applicant No.1 continued with the harassment and ill-treatment. She claims that acts of beating continued thereafter. As regards the other applicants, the allegations in the FIR are that after the marriage of applicant No.4, i.e., brother-in-law of respondent No.2, applicant Nos.2 to 6 started ill-treating respondent No.2. She states that the applicants used to say that her parents are beggars. They did not offer appropriate gifts and presents to the in-laws at the time of marriage and also did not give 25 tolas of gold towards dowry. She alleges that applicant No.2, i.e., father-in-law used to often ask her to leave house so, that he could arrange another marriage for his son, i.e., applicant No.1.

6. Before we proceed to deal with the merits of the matter it will be pertinent to mention that while learned Advocate for the

applicants Mr. Joslyn A. Menezes advanced his submissions, we had expressed disinclination to allow the application *qua* applicant No.1. Learned Advocate for the applicants made a motion to withdraw the application on behalf of applicant No.1 and sought permission to proceed with merits of the matter for the other applicants. We allowed the oral motion and accordingly, the application stands disposed of as withdrawn with respect to applicant No.1.

7. As regards applicant Nos.2 to 6, the contention of the learned Advocate is that the grievance of respondent No.2 is against her husband. He has pointed out from the FIR that there was always marital discord between applicant No.1 and respondent No.2. Respondent No.2 also doubted that applicant No.1 had some extra marital affair and therefore used to continuously talk to some other lady on his mobile. The allegations of beating and ill-treatment are also levelled principally against applicant No.1. He submits that the marital discord took an ugly turn on 27.07.2022 when the couple attacked each other with knife and thereafter, lodged rival complaints on 28.07.2022. It is a consequence of this that respondent No.2-wife left the matrimonial house and started residing at her parental house on 13.08.2022 and thereafter lodged the FIR on 04.03.2023. He submits that intention to implicate all the family members of the estranged husband is writ large on the face of the FIR itself.

8. Per contra Shri. N. R. Dayama, learned A.P.P. appearing for respondent No.1-State and Mr. V. H. Dighe, learned Advocate for respondent No.2 contend that although principal allegations are against applicant No.1-husband, allegations of ill-treatment and demand for dowry are also levelled against the other applicants. They submit that the FIR should therefore not be quashed against other applicants as well since specific allegations have been made.

9. We have heard the respective submission as aforesaid and also perused the records with able assistance of Advocates appearing in the matter. We find substance in the contention of learned counsel for the applicants that the FIR is lodged against applicant Nos.2 to 6 with an intention to implicate all the family members of the estranged husband in a criminal offence. Over implication is apparent on the face of the FIR. The FIR contains definite allegations against applicant No.1 alone, however, without providing any particulars general omnibus allegations which are far too vague have been levelled against applicant Nos.2 to 6. These allegations even if taken to be true and correct, on their face value are insufficient to make out essential ingredients of 498-A of the IPC. It will be unjust and unfair to force applicant Nos.2 to 6 to face criminal prosecution on the basis of such allegations.

10. We are of the considered opinion that the contents of FIR

need to be viewed in the peculiar backdrop of facts of the present case where the fight between husband and wife had reached to the level of inflicting wounds to each other by means of a knife resulting in counter FIRs. It is in the peculiar facts of the case, we would like to follow the guidelines in looking at a FIR that have been laid by the Hon'ble Supreme Court in the matter of ***Mamidi Anil Kumar Reddy Vs. The State of Andhra Pradesh reported in (2024) SCC Online 127***. The Hon'ble Supreme Court has held that in cases where general and omnibus allegations are leveled against family members in a case under Section 498-A of IPC, the FIR should be quashed in as much as such allegations do not constitute essential elements of the said offence. The Hon'ble Supreme Court had also taken a note of rise in frivolous and vexatious cases being filed against all the family members and near relatives of the husband. The Hon'ble Supreme Court has expressed that when a complaint is lodged out of vengeance it is not enough to look into the FIR alone and all other attending circumstances must also be looked into. The material and should be viewed with circumspection and contents of FIR must be interpreted by reading between the lines.

11. We have dealt with the matter guided by the aforesaid judgment of the Hon'ble Supreme Court. We find that although respondent No.2 may have a case against applicant No.1 she has failed

to make out any case for continuing prosecution against applicant Nos.2 to 6. We are therefore of the considered opinion that the FIR and resultant criminal prosecution deserves to be quashed against applicant Nos.2 to 6. Hence, we pass the following order:-

ORDER

- (i) The criminal application is dismissed with respect to applicant No.1-Saeed Aslam Kureshi
- (ii) The FIR No.0132 of 2023 registered with Loni Police Station, District, Ahmednagar on 04.03.2023 under Sections 498-A, 323, 504, 506 r/w. Section 34 of the IPC and the Chargesheet bearing No.85 of 2023 dated 27.09.2023 for the offences punishable under Section 498-A, 323, 504, 506, 34 and further proceedings thereto being Regular Criminal Case No.291 of 2023 pending on the file of learned Judicial Magistrate First Class, Ahmednagar are hereby quashed against applicant No.2 - Aslam Dilawar Kureshi, applicant No.3 - Rizwana Aslam Kureshi, applicant No.4 - Anis Aslam Kureshi, applicant No.5 - Shabana Adam Palkar, applicant No.6 - Shahazadi Junaid Shaikh.

(ROHIT .W. JOSHI)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE