



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

CRIMINAL APPLICATION NO. 3179 OF 2023

1. Devendra S/o Dhondu Girkar,
Age : 46 Years, Occ. Doctor,
R/o. Dhiraj Dreams Co-operative Society,
Block No. 4 "C", IInd Floor, Plot No. 204,
towards West of Railway Station,
Bhandup West Mumbai-400078.
2. Dhondu S/o Gopalrao Girkar,
Age : 71 Years, Occ. Retired,
R/o. As above.
3. Survarna W/o Dhondu Girkar,
Age : 71 Years, Occ. Household,
R/o. As above.
4. Sachin S/o Dhondu Girkar,
Age : 41 Years, Occ. Service,
R/o. As above
5. Satyawani S/o Dhondu Girkar,
Age : 46 Years, Occ. Service,
R/o. As above
At present at United State of America
6. Alka W/o Sachin Girkar,
Age : 35 Years, Occ. Household,
R/o. Dhiraj Dreams Co-operative Society,
Block No. 4, C IInd Floor, Plot No. 204
towards West of Railway Station,
Bhandup West Mumbai-400078.
7. Aruna D/o Shridhar Girkar,
Age : 28 Years, Occ. Service,
R/o. Sondala Kumbharwadi
Tq. Rajapur Dist. Ratnagiri
At present Australia Country
8. Shridhar S/o Gopalrao Girkar,
Age : 71 Years, Occ. Retired,
R/o Sondala Kumbharwadi
Tq. Rajapur Dist. Ratnagiri

9. Sachin S/o Nagorao @ Nagnath Bamanpalle,
Age : 41Years, Occ. Business,
R/o. MSEB Adatline Udgir,
Taluka Udgir,Dist. Latur
 10. Watchalabai W/o Nagorao @ Nagnath Bamanpalle
Age : 58 Years, Occ. Household,
R/o. As above
- ..Applicants
(Orig. Accused)

VERSUS

1. The State of Maharashtra,
Through Police Station
Udgir Rural, District Latur
 2. Soni W/o Devendra Girkar,
Age : 26 Years, Occ. Household,
R/o. Dhiraj Dreams Co-operative Society,
Block No.4 C IInd Floor, Plot No. 204,
towards West of Railway Station,
Bhandup West Mumbai-400078
At present R/o Shrey's House,
Naik Chowk, Udgir Dist. Latur.
- .. Respondents
(R. No.2 is orig. complainant)

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*Mr. Gopal D. Kale & Amit A. Bhosale, Advocate for applicants.
Mr. A. D. Wange, A.P.P. for Respondent No.1/State.*

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

DATED : JANUARY 07, 2025

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

1. The applicants in the present matter are aggrieved by registration of the F. I. R. against them for the offences punishable under Sections 498-A, 323, 504, 506, 109,114 read with Section 34 of the Indian Penal Code (herein after referred to as 'IPC'). The F. I. R. is

registered on 16.12.2020 vide Crime No. 0457 of 2020 with Udgir Rural Police Station, District Latur. Respondent No.2 is the informant. Applicants are related to respondent No.2 as under :-

Applicant No.1-husband (application is withdrawn on 30.10.2023). Applicant No.2- Father-in-law, applicant No.3-Mother-in-law, applicant Nos.4 & 5-Brothers-in-law, applicant No.6- wife of applicant No.4, applicant No.7- cousin sister of applicant No.1., applicant No.8- Uncle of applicant No.1, applicant Nos. 9 and 10- parents of applicant No.6.

2. Marriage of applicant No.1 and respondent No.2 was solemnized on 24.04.2016. Respondent No.2 has alleged that for a period of around six months after the marriage, she was treated properly by the in-laws. However, thereafter they started harassing her by not allowing her to cook food, not offering food to eat and at times offering stale food to eat. She has also levelled allegations of beating. It is alleged that applicant No.1-husband used to avoid physical relation with her. She alleges that applicant No.1 beat her under the influence of liquor and often used to say that he wants to marry another girl.

3. Respondent No.2 also raised a grievance that applicant No.1 never got gifts for her and also did not celebrate her birthdays,

whereas on the other hand he used to bring gifts for applicant No.6 and celebrate her birthday. It is alleged that applicant No.1 used to demand Rs. Twenty Lakhs from her father for the purpose of starting a hospital.

4. Respondent No.2 has alleged that applicant No.3 did not allow her to cook food and used to ill-treat her saying that she does not cook well. Apart from it, it is alleged that she used to offer her stale food to eat and at times did not offer food at all. The allegations against applicant Nos. 6 and 7 are vague i.e. they used to constantly say that they will arrange to get applicant No.1 married to some other girl and did not allow respondent No.2 to do any work in the house. She also alleges that applicant No.6 used to tell her that her brother is looking for a suitable girl to marry applicant No.1 and if she does not bring Rupees Twenty lakhs from her parents, she will have to leave the matrimonial house. Applicant No.5 resides in USA. Respondent No.2 alleges that he used to instigate the family members residing at the matrimonial house to exert pressure on respondent No.2 to bring Rupees Twenty Lakhs. from her parents. The allegations against applicant Nos. 2,4 and 8 are that they used to ask her to bring Rupees Twenty Lakhs from her parents. As regards applicant Nos. 9 and 10, who are parents of applicant No.6, it is alleged that in the reconciliation meeting they had asked father of respondent No.2 to

arrange for Rupees Twenty Lakhs to be paid to applicant No.1.

5. Before adverting to the merits of the matter, we may take a note that respondent No.2 is the second wife of applicant No.1. His first wife Tejashree has died due to cancer. He has a daughter from his first wife Tejashree, who is stated to be a 7th standard student in the year 2023 when the present application was filed. As regards applicant No.1, the application is already disposed of as withdrawn, vide order dated 20.10.2023.

6. We have heard Mr. Gopal D. Kale learned Advocate for the applicants and Shri. A. D. Wange learned A.P.P. for respondent State. Respondent No.2 though served had not appeared in the matter.

7. Perusal of the F.I.R. indicates that the principal grievance of respondent No.2 is against her husband i.e. applicant No.1. Respondent No.2 is second wife of applicant No.1. Applicant No.1 has a daughter from his first wife. The allegations against applicant No.1 is that he used to avoid physical relationship with respondent No.2. She alleges that he used to scold her and also beat her when she made inquiry with regard to such conduct on his part. It is also alleged that he used to beat her under influence of liquor. From the allegations in the F. I. R. it also appears that respondent No.2 had uneasy relationship with applicant No.6, who is wife of her husband's brother.

Respondent No.2 has made a grievance that applicant No.1-her husband did not celebrate her birthday and did not offer her gifts, whereas he had brought a sari to gift applicant No.6 on her birthday.

8. The allegations against other applicants are regarding instigation to applicant No.1. Apart from this, general allegations regarding ill-treatment etc, have been made. Respondent No.2 alleges that she was kept starving and was offered stale food to eat. These allegations are general in nature. It needs to be mentioned that we come across such allegations in every other matter under Section 498A of the IPC that wife is not offered food to eat or stale food etc. Respondent No.2 has involved names of applicant Nos. 9 and 10, who are parents in-law of her brother-in-law in the matter. She has also implicated paternal uncle of her husband who stay at Ratnagiri as well as daughter of paternal uncle, who is residing in Australia. Likewise, allegations are also levled against brother-in-law, who stays in United State of America. An attempt is made to implicate all the persons in the family as also the parents of applicant No.6 with whom respondent No.2 appears to have uneasy relation which is apparent from the contends of the F. I. R. The contents of the F.I.R. do not even indicate tentative period of the alleged harassment. The contents of the F.I.R. lack clarity. The particulars of alleged misbehavior are also missing. We are of the considered opinion that the present case is one

of over implication where the wife has involved names of all relatives of the estranged husband in the offence under Section 498-A of the IPC. The alleged demand of Rs. Twenty lakh for starting a hospital also does not inspire confidence. It would be difficult to consider that an establishment such as a hospital can be set up in Mumbai with such paltry amount. So far as applicant No.1 is concerned, the application is not entertained and is disposed of vide order dated 30.10.2023. However, as regards the other applicants, we are of the considered opinion that they have genuine grievance as regards unnecessary implication in criminal case.

09. Having regard to the back drop of the facts of the present case, we have taken guidance with respect to appreciation of material on record for the purpose of dealing with application for quashing of the F.I.R. from the judgment of the Hon'ble Supreme Court in the matter of *Kahkashan Kausar @ Sonam Vs. The State of Bihar [(2022) 6 SCC 599]* and *Mamidi Anil Kumar Reddy Vs. The State of Andhra Pradesh [(2024) SCC Online 127]*. The Hon'ble Supreme Court has expressly laid down that while dealing with cases under Section 498-A of the IPC against relatives of husband, extra care and caution should be exercised to safeguard against over implication. The Hon'ble Supreme Court has taken note of tendency to implicate all the family members of estranged husband. The Hon'ble Supreme Court has clearly stated

that vague, unspecific and omnibus allegations would not be sufficient to sustain prosecution under Section 498-A of the IPC and in such cases the FIR must be quashed. The Hon'ble Supreme Court has also explained that when relations are strained and penal law is sought to be put in motion, often the complaints/First Information Reports are drafted with due care and caution so as to ensure that ingredients of the offence are made out. The Hon'ble Supreme Court has directed that in such cases apart from the First Information Report other attending circumstances must also be seen. It is held that it is duty of Courts to scuttle frivolous and vexatious litigation which leads to unnecessary harassment to persons arrayed as accused without any justification.

10. We have dealt with the present matter in the light of the ratio laid down by Hon'ble Supreme Court in the above two cases and catena of judgments on similar line. We are of the considered opinion that respondent No.2 may have legitimate grievance against applicant No.1, however, she has unnecessarily involved all her family members and distant relatives in the matter. The F. I. R. and other material gathered during the course of investigation do not justify continuation of prosecution against applicant Nos. 2 to 10. In the result, we pass the following order

ORDER

- (i) The application is partly allowed.
- (ii) The application is disposed of as withdrawn with respect to applicant No.1- Devendra Dhondu Girkar.
- (iii) F.I.R/Crime No. 0457 of 2020, registered with Udgir Rural Police Station, District Latur; Charge Sheet No. 110/2022 dated 26.05.2022 and Regular Criminal Case No. 166 of 2022 pending on the file of the learned Judicial Magistrate, (F.C.) Udgir, District Latur for the offences punishable under Sections 498-A, 323, 504, 506, 109 and 114 read with Section 34 of the Indian Penal Code are hereby quashed and set aside against the applicant No.2-Dondu S/o Gopalrao Girkar, applicant No.3- Suvarna W/o Dhondu Girkar, applicant No.4- Sachin S/o Dhondu Girkar, applicant No.5- Satyawar S/o Dhondu Girkar, applicant No.6- Alka W/o Sachin Girkar, applicant No.7 Aruna D/o Shridhar Girkar, applicant No.8- Shridhar S/o Gopalrao Girkar, applicant No.9- Sachin S/o Nagorao @ Nagnath Bamanpalle, applicant No.10- Watchalabai W/o Nagorao @ Nagnath Bamanpalle.

(ROHIT W. JOSHI)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE