



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3263 OF 2023

1. Mohammad Muddassar Mohammad
Akhtar Quadri
2. Mohammad Akhtar Mohammad
Umar Kadri
3. Qadirunnisa Begum @ Parvinbee
Mohammad Akhtar Kadri
4. Mohammad Sohail s/o Mohammad
Akhtar Kadri
5. Sara w/o Waseem Shaikh
6. Sayyad Waseem Sayyed Noor
7. Mohammad Amar Mohammad
Mazher Kadri

.. Applicants

Versus

1. The State of Maharashtra
Through Officer Incharge,
Police Station Sillod,
District Aurangabad.
2. Aaysha Mohammad Muddasar
Kadri

.. Respondents

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Ms. Pooja S. Ingle, Advocate h/f Mr. S. J. Salunke, Advocate for applicants.
Mr. N. R. Dayama, Advocate for respondent No.1/State.
Mr. A. L. Kanade, Advocate for Respondent No.2.

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

RESERVED ON : 03 JANUARY 2025

PRONOUNCED ON : 10 JANUARY 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Present application has been filed under Section 482 of the
Code of Criminal Procedure initially for quashing the FIR vide

Crime No.145 of 2023 dated 24.07.2023 registered with Sillod City Police Station, District Aurangabad for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code and during pendency when charge-sheet is filed it is for quashment of proceedings bearing R.C.C. No.350 of 2023 pending before the learned Judicial Magistrate First Class, Sillod, District Aurangabad.

2. Heard learned Advocate Ms. Pooja S. Ingle holding for learned Advocate Mr. S. J. Salunke for the applicants, learned APP Mr. N. R. Dayama for respondent No.1/State and learned Advocate Mr. A. L. Kanade 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 is not in dispute that respondent No.2 got married to applicant No.1 on 24.06.2022 as per Muslim rites. She states that she was treated properly for about three months. Applicant No.1 is the husband of the informant, applicant Nos.2 and 3 are the parents of applicant No.1, applicant No.4 is the brother and applicant No.5 is married sister of applicant No.1. Applicant No.6 is the husband of applicant No.5 and applicant No.7 is the cousin

brother of applicant No.1.

4. The informant is contending that after three months of marriage all the accused persons started taunting her on the ground that she is from village and is unable to cook food. She has specifically stated that on the trifle domestic grounds she was mentally and physically harassed, however, she has not given the details except the said taunting. All the seven persons could not have given taunts at one and the same time. Further, in the entire FIR she has not stated as to why the married sister-in-law and her husband were residing in house of her husband i.e. applicant No.1. In the normal course, the married sister-in-law and her husband would reside at the place where the husband of the sister-in-law is residing. If we consider the address given by the applicants, then of course applicant Nos.5 and 6 are also residing at Aurangabad, but their house is different and in a different locality than the house of applicant Nos.1 to 4. Same is as regards applicant No.7, who is the cousin brother of applicant No.1. Informant has thereafter stated that her husband and parents-in-law were asking her to bring amount of Rs.5,00,000/- for getting permanency in employment of husband with Nagar Parishad. She told them that her parents are poor and unable to

give the amount. Then applicant Nos.1 to 3 responded that if she is unable to bring the amount, then she should not come for cohabitation and on that count, she was harassed mentally and physically time and again. Again the acts amounting to “physical and mental cruelty” are not given. Statement that unless she brings the amount she should not come for cohabitation without any action will not amount to mental and physical harassment. When the alleged demand is made has also not approximately stated and for how much period the said demand persisted has not been stated. She then states that she gave information about the treatment given to her and her father who had in turn given that information to their relative. All of them had come and tried to persuade accused persons, but there was no settlement. According to the informant since that date the accused persons intensified harassment. Again the details are lacking. Then she directly states that when she was in her parental house, applicant No.1 went there and abused her. Thereafter, the other accused persons i.e. applicant Nos.4 to 7 instigated applicant Nos.1 to 3 for not to allow cohabitation of the informant with applicant No.1. Threat was given that if she is unable to bring the money then she will not be allowed to stay with them and she

would be killed. All these allegations are vague. When that statement was made has also not been stated. As earlier stated it is to be noted that she got married on 24.06.2022 and FIR has been lodged on 24.07.2023. That means the married life of which narration has been given is of just more than one year. Out of that three months she was treated properly and when she returned to the parental home has not been stated. Statements of the witnesses are on the same line. All the witnesses have also kept those facts vague as they are. Neither the details about the alleged cruelty have been given, nor the date on which there was a meeting and when the informant came to the parental home has been stated. The statements of the witnesses are copy paste and it appears that the investigating officer has made maximum use of the computer, of course which is not for good reasons. There cannot be statement in the form of copy paste paragraph to paragraph without difference in punctuations and fonts also. Unnecessarily energy has been wasted in drawing panchanama of the house of applicant No.1 and even photographs have been taken on the mobile and then certificate under Section 65-B of Indian Evidence Act has been given.

5. We are constrained to observe that police officials are not

investigating such cases in the manner they are required to. There is no sensitivity that is shown, nor proper procedure is adopted. Statements in the nature of copy paste is the example of non application of mind by the investigating officer (as he is supposed to apply his mind even while taking statement under Section 161 of the Code of Criminal Procedure) and insensitivity. They do not make inquiry to the neighbours of the matrimonial home. Statements are always recorded of the witnesses who are either relatives of the wife or neighbours where her parents are residing. Of course the lady would disclose the treatment that is given to her parents and the relatives at the first place and their statements would then be important, however, the other possibilities involved and any other piece of evidence if available is not at all considered by the investigating officers. It is not even necessary that the charge-sheet should be filed against all those persons who are named in the FIR as well as statements of witnesses. If those accused are residing at far away place, then how that accused would have been involved in the commission of the offence should be considered by the investigating officer. It is in the wisdom of the investing officer to file charge-sheet against those accused only against whom there is strong evidence.

Unnecessary harassment and false implication should be avoided.

6. In the present case, the FIR is as vague as possible and it is not disclosing the basic ingredients of the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code and, therefore, this is a fit case for exercising powers under Section 482 of the Code of Criminal Procedure to avoid the unjust trial against the applicants. Hence, following order :-

ORDER

I) Criminal Application stands allowed.

II) The First Information Report bearing Crime No.145 of 2023 dated 24.07.2023 registered with Sillod City Police Station, District Aurangabad for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code as well as the proceedings in R.C.C. No.350 of 2023 pending before the learned Judicial Magistrate First Class, Sillod, District Aurangabad, stand quashed and set aside as against the present applicants.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm