



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

CRIMINAL APPLICATION NO.3301 OF 2023

1. Chandrarekha W/o. Nagnath Giri,
Age: 80 years, Occu: Nil,
2. Nitin Nagnath Giri,
Age: 39 years, Occu: Defence Service,
3. Chaya W/o. Nitin Giri,
Age: 32 years, Occu: Housewife,
Applicant no. 1 to 3 are
R/o. Kohima lines, Near Apna Bazar
Complex, Camp, Pune-411001.
4. Hemant S/o. Kisan Giri,
Age: 32 years, Occu: Fabrication,
R/o. Near Maruti Mandir, Post. Para,
Tq. Washi, Dist: Osmanabad.
5. Jayashree Mhalappa Ghodke,
Age: 54 years, Occu: Professor,
R/o. Punyashlok Nivas, Near Hanuman Mandir,
Naldurga, Tq. Tuljapur,
Dist: Osmanabad.
6. Pallavi Rohidas Gadhe,
Age: 35 years, Occu: GST Inspector,
R/o. Flat no. 27, Aurangabad Hsg Society,
Jay Bhavani Road, Behind Mhasoba Mandir,
Jayabai Colony, Nashik Road Camp,
Nashik, Tq. & Dist: Nashik.

... Applicants

(Ori. Accused no. 2 to 7 in FIR)

Versus

1. State of Maharashtra,
Through Ministry of Home Affairs,
Mantralaya, Mumbai-1.
2. The District Superintendent of police,
Latur, Tq. and Dist: Latur.

3. The Police Inspector,
Shivaji Nagar Police Station,
Latur City, Tq. & Dist: Latur.
4. Smt. Shital Anup Giri,
Age: 33 years, Occu: Housewife,
R/o. Para, Tq. Vashi, Dist: Osmanabad
Presently residing at Shri Datta Niwas,
Sambhaji Nagar, Khandgaon Road,
Near to Ganpati Temple, Latur
Mob. No. 9834290228.

... Respondents

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Ms. Rashmi Kulkarni, Advocate h/f. Mr. Dilip B. Rode and Mr. Sanket S. Kulkarni for the Applicants.

Mr. N. R. Dayama, APP for Respondent Nos.1 to 3-State.

Mr. Shrikant G. Kawade, Advocate for Respondent No.4 (through V.C.).

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**CORAM : SMT. VIBHA KANKANWADI &
MANJUSHA DESHPANDE, JJ.**

DATE : 17th APRIL, 2025

JUDGMENT:- (Per Manjusha Deshpande, J.)

1. Rule. Rule made returnable forthwith. Heard learned Advocate appearing for the respective parties finally, by consent.

2. Applicant Nos.1 to 4 are the relatives of husband of Respondent No.4-informant, who has filed FIR vide C.R. No.362 of 2023 dated 21st July 2023, registered with Shivaji Nagar Police Station, Latur for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code. Applicant No.5 is professor and not related to the husband of the informant. Similarly,

Applicant No.6 is alleged to be friend of husband of the complainant who is Government Servant. Respondent No.4-complainant filed FIR against her husband and the Applicants herein alleging that her husband-Anup Nagnath Giri and the Applicants have assaulted and ill-treated her after her marriage. It is stated in the complaint that her marriage with Anup was solemnized on 3rd January 2016. Her father had given Rs.7,00,000/- as a dowry along with 20 Tolas of gold ornaments. It is stated that she was treated well by her husband and in-laws for one year after the marriage. However, since January 2017, her husband started insisting her that she should appear for MPSC examination, for which she should join coaching classes. Accordingly, she was enrolled for MPSC classes, though she did not like to study, she was forced to study by her husband. It is alleged that due to insistence of her husband that she should attend the MPSC classes, she was mentally depressed. It is also alleged that Applicant No.6 one Pallavi R. Gadhe was her husband's friend prior to their marriage, was also in Government Employment. It is alleged that Applicant No.6 started interfering with her marriage, due to which, there was a discord between herself and her husband.

3. It is further alleged in the complaint that the Applicants herein have abused her since she was not in Government Employment

and not of same standard, like her husband who had passed MPSC and was working as Naib Tehsildar. She was also threatened by Applicants that they will perform second marriage of her husband with the girl who has qualified MPSC examination. It is alleged that she was many times abused and assaulted by the Applicants and driven out of house by them. She informed about the ill-treatment meted out to her, to her father. Though a meeting was conducted to thrash out the differences between herself and her husband, her husband instead of taking her to reside along with him, he had left her at her in-laws house at Para, District Osmanabad and he himself had gone to Nagpur, at the place of his posting. It is alleged by her that she was ill-treated by her husband and his relatives, which constrained her to leave the matrimonial house. Thereafter, she has approached Bharosa Cell, Women's Assistant Cell/Crime Branch Office of Superintendent of Police, Latur on 6th July 2023, for filing complaint against the husband and his relatives. At last, she has filed the FIR on 21st July 2023, against the husband and present Applicants.

4. It is the contention of the Applicants that they are not at all concerned with the matrimonial life of the complainant along with her husband-Anup. Applicant Nos.1 and 3, are the relatives of the husband of informant who are residing separately in Pune, due to employment

of Applicant No.2 in military service. Applicant No.1 is the old age mother of Applicant No.2 and she is residing with Applicant No.2 for her medical treatment. Applicant No.2 is serving in the Indian Army. Since last four years, he is posted at various places in Maharashtra and Applicant No.3 is the wife of Applicant No.2, who resides along with him at the places where he is stationed during his service tenure. Applicant No.4 is a cousin of Applicant No.2 and the husband of informant. He has no concern with the family of husband of informant and he is residing separately. Applicant No.5 is the professor, who is residing at Naldurga, Taluka Tuljapur, District Osmanabad, which is far away from Palghar where the complainant resided along with her husband-Anup. Therefore, there was no question of any ill-treatment being given by Applicant No.5 to the complainant from such a long distance. Similarly, Applicant No.6 is working as a GST Inspector at Nashik, which is also far away from Palghar, where the complainant last resided together with her husband.

5. The Applicant Nos.5 and 6 are neither blood relative nor in-laws of the informant. Section 498-A would not be attracted in case of both the Applicants. After filing of the present criminal application seeking quashment of FIR vide C.R. No.362 of 2023, the chargesheet came to be filed in the present case, therefore, Applicants have sought amendment, with a prayer seeking directions to quash and set aside

R.C.C. No.132 of 2024 pending before the learned Judicial Magistrate First Class, Latur.

6. It is the contention of the Applicants that none of them have resided with the complainant, inspite of that she has made wild allegations against all of them, which is nothing but abuse of process of law. The Advocate for the Applicants submits that the allegations in the FIR against the present Applicants are general in nature. There is no specific role attributed to any of the Applicants in the alleged physical or mental harassment of the complainant. It is contended by learned Advocate that, though offence under Section 323 is alleged to have committed, there is no particular incident cited to support the allegations of physical injury caused to the complainant. It is also not supported by any medical record of the complainant.

7. The learned Advocate for the Applicants has drawn our attention to the notice issued by the husband of the complainant dated 19th June 2022, seeking divorce from the complainant. The notice was replied by the complainant on 4th July 2022, wherein, she has shown her willingness to cohabit with the husband and has refused to grant divorce. According to the learned Advocate for the Applicants, the filing of FIR is nothing but an after thought by the complainant. Notice was issued by the husband of complainant on 19th June 2022 and

inspite of showing her willingness to cohabituate with him, in her reply dated 4th July 2022, the complainant has filed FIR on 21st July 2023. This itself makes it obvious that merely in order to harass the Applicants, the complainant has filed the FIR. Learned Advocate for the Applicants further submits that, though the complainant was aware that her husband has filed divorce proceedings before the learned Civil Judge Senior Division, Bhoom, District Osmanabad being Hindu Marriage Petition No.27 of 2023 dated 6th May 2023. She has not referred to the divorce proceedings in her complaint.

8. It is the contention of learned Advocate for the Applicants that filing of FIR and roping the Applicants by naming them in the FIR is nothing short of wreaking vengeance against the husband for filing divorce proceedings against the complainant. The criminal prosecution is used as tool by the complainant for causing harassment and private vendatta and with an ulterior motive to pressurize the husband and settle score with him. Though all the Applicants are residing at different places. It is claimed that all of them have harassed the complainant, while she was residing with her husband as well as at her matrimonial house.

9. Mr. Shrikant Kawade, learned Advocate appearing for Respondent No.4 has opposed the prayers made by the Applicants.

According to him, Respondent No.4 was pressurize and traumatised by the Applicants, since she was not preparing for the MPSC examination and she was not a good match for her husband. According to them, they wanted to well educated and MPSC qualified girl, who would suit Anup. Though, she was not interested in appearing for the MPSC examination, she was forced to prepare for the exam and attend the classes, which is nothing short of cruelty. The Applicants have many times assaulted her and abused her on that count. Hence, considering that the chargesheet is already filed, the prayer of the Applicants does not deserves consideration.

10. Mr. Dayama, learned APP for State has also opposed the application on the ground that sufficient evidence has been collected during the investigation, on the basis of which, chargesheet has been filed. According to the learned APP, the statements of the complainant, her father Vyankat Dhanrajgir Giri, her uncle-Gokulnir Dhanrajgir Giri, her brother-Sachin Vyankat Giri and the statement of independent witness Shri. Anil Mohanrao Karad, who is the friend of her father, have supported the allegations made by the complainant. It is, therefore, prayed by learned APP that the criminal application deserves to be dismissed.

11. We have heard the respective parties and we have perused

the FIR as well as chargesheet, which is placed on record subsequently. Sofar as the present Applicants are concerned, from the perusal of the FIR, the allegations made against Applicant Nos.1 to 5 is that after one year of the marriage, they have abused and assaulted the informant on the ground that she has not qualified MPSC examination and she was not of their standard. She was threatened that they will perform second marriage of her husband. It is also claimed by her that she was assaulted with the fists and blows. She was starved and mentally harassed, eventually, she was driven out of the house by the Applicants.

12. Upon perusal of the FIR, there is no specific allegation made against each of the Applicants. The allegations are omnibus and common allegations are made against all the Applicants. Though, the complainant was residing with her husband at Palghar during that period and the Applicants were residing at different places which was at quite a distance from Palghar, yet allegations are made that the Applicants have assaulted and abused the complainant on the ground that she is not well qualified and she was not a good match for her husband. There are no specific instances or incident cited by the complainant that would support her allegations of offences under Section 498-A, 323, 504, 506 and Section 34 of the IPC.

13. It is evident from record that the husband of the complainant

had sent a notice of divorce on 19th June 2022 and, thereafter, he has filed Hindu marriage petition for divorce on 6th May 2023. It is only after filing of the divorce petition, the FIR has been filed on 21st July 2023 by the complainant from which, it can be easily gathered that the filing of FIR is nothing, but a tool which is used by the complainant for pressurizing the Applicants. Upon the perusal of statement recorded by the Investigating Officer during the investigation. It is evident that witnesses have given statements which has similar, and monotonous. There are no specific allegations as such against each of the Applicants.

14. The Applicants have made averment in the application that all of them are residing at distant and different places which is far away from Palghar where the complainant resided along with her husband-Anup. Applicant Nos.1 to 3 are residing at Pune. Applicant No.4, who is the cousin of Applicant No.2, is residing separately from the family and carrying on his own business. Applicant No.5 is also residing at Naldurga, who is not related to the husband. While Applicant No.6 is residing at Nashik due to her service as GST Inspector. Thus, implicating all the Applicants in the complaint is nothing, but abuse of process of law.

15. Considering the allegations which are vague and no specific role is attributed to each of the Applicants independently we do not

find any substance in the allegations made against the Applicants in the FIR.

16. Sofar as allegation of offence under Section 498-A is concerned, it is attracted only in case of husband of complainant and his relatives. In the present case, except Applicant Nos.1 to 4, none of them are the relatives of her husband. Even Applicant Nos.1 to 3, they are residing at a far away place, from where they could not have meted out any ill-treatment or subjected the complainant to cruelty as alleged.

17. Similarly, allegations of offences under Sections 504 and 506 of the IPC are not supported by the contents of the FIR against any of the Applicants. Similarly, Section 323 of IPC is also not attracted in the present case, since, there is no averment to that effect in the complaint, about voluntarily causing, hurt to the complainant. It is also not supported by any medical certificate.

18. We do not find any substance in the allegation made against the Applicants in the FIR as well as in the chargesheet filed against the Applicants in R.C.C. No.132 of 2024 pending before the learned Judicial Magistrate First Class, Latur.

19. Time and again this Court as well as Hon'ble Supreme Court

has frowned upon implication of distant relative of husband, in the offences registered by the wife making wild accusations against them. In a recent decision, the Hon'ble Supreme Court in case of ***Dara Lakshmi Narayana & Ors. Vs. State of Telangana & Anr.***¹, had occasion to deal with similar circumstances, the observations made in paragraph No.25 of the judgment reads thus:-

“25. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. In the present case, appellant Nos. 2 to 6, who are the members of the family of appellant No. 1 have been living in different cities and have not resided in the matrimonial house of appellant No. 1 and respondent No. 2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.”

20. While commenting upon the rampant misuse of Section 498A of IPC, which was intended to curb the cruelty against woman being used as a tool for unleashing the personal vendatta against the husband and his family, the Hon'ble Supreme Court has held that making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to misuse of legal process and encouragement for use of tactics by wife and her family. Sometimes recourse is taken to

¹ 2024 SCC OnLine SC 3682

influence Section 498-A of the IPC against the husband and his family in order to seek compliance with unreasonable demands of a wife. Consequently, this Court has time and again cautioned against implicating the husband and his family, in absence of a clear prima-facie, case against them and resultantly, the FIR filed by the wife against the relatives of husband has been quashed and set aside.

21. In the present case, there is no prima-facie case made out against any of the Applicants, since there is no specific allegation made against each of the Applicants. Continuation of the criminal proceedings against the Applicants would amount to abuse of process of law, as has been observed by the Hon'ble Supreme Court in number of judicial pronouncements. In absence of specific role attributable to the accused named in the FIR, it would be unjust if such persons are forced to go through the tribulation of the trial on the basis of omnibus allegations.

22. Thus, we are satisfied that this is a fit case to exercise the powers under Section 482 of the Cr.PC.. The application, therefore, deserves to be allowed. Hence, the following order is passed:-

ORDER

- (i) The application stands allowed and disposed of.

(ii) The proceedings in R.C.C. No.132 of 2024, pending before the learned Judicial Magistrate First Class, Latur, arising out of FIR bearing C.R. No.362 of 2023, registered with Shivaji Nagar Police Station, Latur for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, stands quashed and set aside to the extent of these Applicants.

(iii) Rule made absolute in the above terms.

[MANJUSHA DESHPANDE, J.]

[SMT. VIBHA KANKANWADI, J.]