



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3338 OF 2023

- 1) Sayyad Firoj Sayyad Manjumiya,
Age-52 years, Occu:Agriculture,
R/o-Pimpri Deshmukh (Ukhlad),
Taluka and District-Parbhani,
- 2) Sayyad Mehtabbegum Firoj,
Age-29 years, Occu:Household,
R/o-As Above,
- 3) Namreen Khaton Sayyad Sharif,
Age-23 years, Occu:Household,
R/o-Saudagar Colony, Dhar Road,
Parbhani, Taluka and District-Parbhani.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Police Station Officer,
Kotwali Police Station,
Taluka and District-Parbhani,
- 2) Shehnaz Syed Sharif,
Age-25 years, Occu:Household,
R/o-Parasvat Nagar, Parbhani,
Taluka and District-Parbhani.

...RESPONDENTS

...
Mr. Azizoddin R. Syed Advocate for Applicants.
Mr. A.D. Wange, A.P.P. for Respondent No.1.
None present for Respondent No.2.

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

DATE : 17th APRIL, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed under Section 482 of the Code of Criminal Procedure, initially for quashing the First Information Report (for short "the FIR") vide Crime No. 68 of 2023, registered with Kotwali Police Station, Parbhani, District-Parbhani on 21st March 2023 for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, and by way of amendment for quashing the consequential Charge-sheet No.36 of 2023 and the proceedings in R.C.C. No. 188 of 2023, pending before the learned Judicial Magistrate First Class, Parbhani.

2. Heard learned Advocate Mr. Syed for the applicants, learned APP Mr. Wange for respondent No.1. Learned Advocate for respondent No.2 is absent.

3. Learned Advocate for the applicants has taken us through the contents of the FIR and other documents in the charge-sheet. The fact which is not in dispute is that respondent No.2 got married to one Sayyed Sharif Firoj Patel on 28th February 2021. He is son of applicant Nos.1 and 2 and applicant No.3 is

stated to be his second wife. The informant had 14 months daughter on the day she lodged the FIR. Further, it is also not in dispute that applicant Nos. 1 and 2, their son – husband of respondent No.2 and respondent No.2 were residing together after the marriage of respondent No.2.

4. The informant states that till the birth of her daughter all had treated her properly, however, thereafter the accused persons started harassing her to bring an amount of Rs.50,000/- for business. For that purpose the accused persons used to abuse, assault her and starved her. When she had informed the said acts of harassment to her parents and relatives, there were attempts to persuade the accused persons, however, there was no positive response. Therefore, her father took her to Parbhani i.e. parental home on 4th November 2022. Thereafter she came to know that her husband had married to applicant No.3. Again there were attempts to resume the cohabitation of the informant but her father was insulted and threat was given that the informant would be killed by pouring kerosene on her person and setting her ablaze. She had tried to settle the dispute through Bharosa Cell, however, it could not reach success. By way of supplementary statement, the informant has corrected the name

of applicant No.1 The charge-sheet would show that the statements of witnesses have been recorded including the parents, brothers, sister-in-law (brother's wife) and neighbour at the parental home of the informant. The father of the informant speaks about the efforts made by him for settling the matrimonial dispute of the informant.

5. The fact that is emerging and which is not disputed in the application, is the marriage between the present applicant No.3 and the husband of the informant and therefore, when disinclination is shown to grant any relief to applicant Nos.1 and 2, the learned Advocate for the applicants, upon instructions, seeks withdrawal of the Application as against applicant Nos.1 and 2.

6. The matter now proceeded for the reliefs claimed on behalf of applicant No.3. Though the marriage between applicant No.3 and the husband of the informant appears to be admitted now, yet, she cannot be taken as a relative of the husband as contemplated under Section 498-A of the Indian Penal Code. We support our conclusion in view of the decision in ***U. Suvetha vs. State by Inspector of Police and another, (2009) 6 SCC 757*** and

the decision in *Dechamma I.M. @ Dechamma Koushik vs. the State of Karnataka and another, Criminal Application No. -- of 2024, (Arising out of SLP (Cri.) No.3421 of 2022)*, decided by the Hon'ble Apex Court on 4th December 2024.

7. Therefore, the ingredients of Section 498-A of the Indian Penal Code does not get attracted as against applicant No.3 and as against her the case is made out for exercise of powers under Section 482 of the Code of Criminal Procedure. Hence, the following order:-

ORDER

(I) The Application stands partly allowed.

(II) The Application stands dismissed as withdrawn as against applicant Nos.1 and 2 i.e. -
1) Sayyad Firoj Sayyad Manjumiya and 2) Sayyad Mehtabbegum Firoj.

(III) The Application stands allowed as against applicant No.3.

(IV) The Charge-sheet No.36 of 2023 and the proceedings in R.C.C. No. 188 of 2023 pending before the learned Judicial Magistrate First Class,

Parbhani, arising out of the the First Information Report vide Crime No. 68 of 2023 registered with Kotwali Police Station, Parbhani, District-Parbhani on 21st March 2023 for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, stands quashed and set aside as against applicant No. 3 - Namreen Khaton Sayyad Sharif.

[MANJUSHA DESHPANDE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/APR25