



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3388 OF 2023

- 1 Mukesh Suresh Prasad @
Mukesh Rajendra Prasad,
Age 33 yrs., Occ. Legal Practitioner,
R/o Row House No.07, Honajinagar,
Jathwada Road, Aurangabad.
(Withdrawn vide order dated 17.01.2024.)
- 2 Rajendra Shankardayal Prasad,
Age 68 yrs., Occ. Pensioner,
R/o Row House No.07, Honajinagar,
Jathwada Road, Aurangabad.
(Withdrawn vide order dated 17.01.2024.)
- 3 Sonali d/o Suresh Prasad,
Age 23 yrs., Occ. Household,
R/o Mathuranagar, N-6, CIDCO,
Aurangabad.
- 4 Suresh Deokrut Prasad,
Age 53 yrs., Occ. Private Service,
R/o Mathuranagar, N-6, CIDCO,
Aurangabad.
- 5 Pramila w/o Suresh Prasad,
Age 51 yrs., Occ. Household,
R/o Mathuranagar, N-6, CIDCO,
Aurangabad.
- 6 Rani d/o Suresh Prasad
(Rani w/o Sushil Bose),
Age 25 yrs., Occ. Household,
R/o Bandgaon, Dist. Nalanda,
(Bihar State)

... Applicants

... Versus ...

- 1 The State of Maharashtra
- 2 Bijali (Pooja) w/o Mukesh Prasad,
Age 33 yrs., Occ. Service,
R/o Honajinagar, Jathwada Road,
Row House No.7, Aurangabad.

... **Respondents**

...

Mr. I.G. Durrani, Advocate for applicants

Mrs. Priya R. Bharaswadkar, APP for respondent No.1

Mr. K.L. Tupe, Advocate for respondent No.2 - **absent**

...

**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

RESERVED ON : 20th FEBRUARY, 2025

PRONOUNCED ON : 08th APRIL, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed for quashing the proceedings in Regular Criminal Case No.94/2022 pending before learned Judicial Magistrate First Class, Aurangabad arising out of First Information Report vide Crime No.459/2021 dated 18.11.2021 registered with Police Station, Begumpura, Dist. Aurangabad, for the offence punishable under Sections 377, 354(A), 498-A, 323, 504, 506 read with Section 34 of the Indian Penal

Code, 1860.

2 It will not be out of place to mention here that when the matter was on board on 17.01.2024, upon instructions, learned Advocate for applicants has withdrawn the application to the extent of applicant Nos.1 and 2, who are happen to be the husband and father-in-law of respondent No.2.

3 Matter proceeded for the reliefs claimed by applicant Nos.3 to 6.

4 Heard learned Advocate Mr. I.G. Durrani for applicants and learned APP Mrs. Priya R. Bharaswadkar for respondent No.1. In order to cut short, it can be said that they have argued in support of their respective contentions.

5 It is not in dispute that original applicant Nos.1 and respondent No.2 got married on 09.10.2011. Applicant No.3 is married sister-in-law, applicant No.4 is father-in-law, applicant No.5 is mother-in-law and applicant No.6 is married sister-in-law. Applicant No.2 has also been posed as father-in-law, but reference to him is that applicant No.1 is stated to have gone in adoption to applicant No.2.

6 Perusal of First Information Report as against applicant Nos.3 to 6 is concerned, it is stated that all of them used to demand dowry and used

to harass respondent No.2, mentally and physically. Here, it is to be noted that when the First Information Report was lodged on 18.11.2021, there is absolutely no mention, as to when exactly the amount and four wheeler was demanded. But, then it is stated that a four wheeler was given in 2014 to husband and a two wheeler was given in 2016. The entire charge sheet does not show any money transaction, but there is an affidavit of one Kishor Aglave, whose four wheeler was given in 2016 in possession of applicant No.1 and it is stated in the affidavit that the amount of consideration was given by Satish Tarachand Yadav, who is brother of respondent No.2. Now, as per First Information Report, four wheeler of same number was given in 2014, whereas the affidavit says that it was given in 2016. How the amount was transferred by witness Satish in the account of Kishor Aglave has not been stated. In the statement of Satish Yadav, he has not stated as to what was the consideration that he had paid for that four wheeler and how he made the payment. Statement of his Savings Account is taken, however, it is from 2018 onwards. In his statement, he says that two wheeler was given in 2018, whereas First Information Report says that it was given in 2016. There are no documents in respect of two wheeler, how the consideration was paid, who was the owner etc. Therefore, there is no documentary support to the First Information Report and statement of brother of respondent No.2. On the next day there is a supplementary statement of informant i.e. on

19.11.2021, wherein she has then corrected the year of four wheeler and two wheeler. But, still she has not disclosed how her brother had paid the amount for those vehicles and how much was the consideration.

7 The supplementary statement thereafter improves a story that when applicant No.6's marriage was fixed, at that time, respondent No.2's all gold ornaments were sold and in-laws of applicant No.6 were paid amount of Rs.10,00,000/- as dowry, a two wheeler was given and still dowry of Rs.5,00,000/- is remaining to be paid. That means, it is a dowry, that is, alleged to be paid for marriage of applicant No.6. It is not stated when applicant No.6 got married. But then in the supplementary statement informant says that for the said remaining amount of Rs.5,00,000/- she was harassed. Respondent No.2 is serving lady. That means, she is not a layman and further it can be seen from the supplementary statement that on 19.11.2021 she has received the intimation regarding divorce proceedings filed by applicant No.1. Applicant No.1 has filed the petition before Family Court, Aurangabad for annulment of marriage stating that in fact, respondent No.2 is an illegitimate child. Her mother is Muslim and father is Hindu and that was revealed by father of respondent No.2 in petition C – 20/2011, which was filed by respondent No.2 against father to get the expenditure of her marriage. The fact was suppressed by respondent No.2. Under such

circumstance, allegations against applicant Nos.3 to 6 appears to be tainted with *mala fides*. There is no specific role attributed to them and, therefore, case is made out for exercise of powers under Section 482 of the Code of Criminal Procedure in favour of applicant Nos.3 to 6. Hence, following order.

ORDER

- i) Criminal Application stands allowed.
- ii) The proceedings in Regular Criminal Case No.94/2022 pending before learned Judicial Magistrate First Class, Aurangabad arising out of First Information Report vide Crime No.459/2021 dated 18.11.2021 registered with Police Station, Begumpura, Dist. Aurangabad, for the offence punishable under Sections 377, 354(A), 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860, stands quashed and set aside as against applicants viz. 3) **Sonali d/o Suresh Prasad**, 4) **Suresh Deokrut Prasad**, 5) **Pramila w/o Suresh Prasad** and 6) **Rani d/o Suresh Prasad**.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)