



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

CRIMINAL APPLICATION NO. 3389 OF 2023

1. Satish S/o Manik Gavai - **withdrawn**
Age : 35 years, Occ : Service,
Now R/o Dharampeth Police Quarters,
Nagpur.
2. Manik S/o Annaji Gawai
Age : 75 years, Occ : Agri.,
R/o Botha Road, beside Honda Showroom,
Sunderkhed, Buldhana, Tq. & Dist. Buldhana.
3. Sindhu W/o Manikrao Gawai
Age : 72 years, Occ : Housewife,
R/o Botha Road, beside Honda Showroom,
Sunderkhed, Buldhana, Tq. & Dist. Buldhana.
4. Suraksha W/o Jeevan Shegaonkar,
Age : 36 years, Occ : Service (Anganwadi Sevika),
R/o Near Khamgaon Road, Behind Kothari Showroom,
Buldhana, Tq. & Dist. Buldhana.
5. Varsha W/o Nilesh Telgote
Age : 42 years, Occ : Service,
R/o Buldhana, Tq. & Dist. Buldhana
6. Reshma W/o Prakash Tayde
Age : 36 years, Occ : Service (Police Constable),
R/o Chandak Layout, Buldhana,
Tq. & Dist. Buldhana
7. Sushma W/o Swapnil Gaikwad
Age : 32 years, Occ : Household,
R/o Gut No.94, Ganeshnagar, Aurangabad.
8. Prakash S/o Shrikrushna Tayde
Age : 34 years, Occ : Service (Junior Assistant),
R/o Sunderkhed, Tq. & Dist. Buldhana.

9. Nilesh S/o Rajaram Telgote
Age : 47 years, Occ : Service (Asst. Teacher),
R/o Shantinagar, Buldhana,
Tq. & Dist. Buldhana.

..APPLICANTS

-VERSUS-

1. The State of Maharashtra
2. Diksha W/o Satish Gavai
Through – Suresh Kisan Choutmal
Age : 24 years, Occ : Housewife,
R/o Dharampeth Police quarters, Nagpur,
At present Aambedkar Nagar,
Near Boudh Vihar, Jafrabad,
Tq. Jafrabad, Dist. Jalna.

..RESPONDENTS

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Advocate for the applicants : Mr. A.S. Barlota
APP for Respondent- State : Mr. N.R. Dayama
Advocate for respondent No.2 : Mr. Prashant P. Giri

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

DATED : 20th JANUARY, 2025.

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

. Applicant No.1 in the present matter is husband of respondent no.2. The other applicants are related to respondent no.2 as under :-

- (i) Applicant No.2 – father-in-law
- (ii) Applicant No.3 – mother-in-law,
- (iii) Applicant No.4- married sister-in-law
- (iv) Applicant No.5 – married sister-in-law

- (v) Applicant No.6- married sister-in-law
- (vi) Applicant No.7- married sister-in-law
- (vii) Applicant No.8 – husband of sister-in-law
- (viii) Applicant No.9 – husband of sister-in-law

2. The marriage of applicant no.1 and respondent no.2 was solemnized on 09.05.2021. Applicant No.1 is serving in police department. At the time of marriage, applicant no.1 and respondent no.2 were residing at Nagpur where applicant no.1 was posted. Applicant No.1 and respondent no.2 are blessed with a daughter from their wedlock.

3. Applicant Nos.2 and 3, the parents-in-law of respondent no.2 used to reside at Buldhana. Likewise, applicant nos.4 to 7, who are married sisters-in-law of respondent no.2 were always residing at their matrimonial houses at Buldhana and Aurangabad. Applicant Nos.8 and 9, who are husbands of applicant nos.6 and 5 respectively also reside at Buldhana.

4. Respondent No.2 has lodged FIR against all the applicants for the offences punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code (I.P.C.) with Police Station, Jafrabad, Dist. Jalna on 22.06.2023, vide F.I.R. No.170/2023. It will be pertinent to mention here that due to some inadvertent error, the same

FIR came to be re-registered with the same Police Station with identical allegations, vide FIR No.171/2023 as well. However, investigation in the matter was conducted in FIR No.170/2023 in which the charge-sheet came to be filed, pursuant to which Regular Criminal Case No.213/2023 came to be registered against the applicants, which is at present pending on the file of the learned Judicial Magistrate, First Class, Jafrabad, Dist.Jalna. The applicants have filed the present application under Section 482 of the Code of Criminal Procedure (Cr.PC.) in order to challenge the said FIR and criminal case registered against them.

5. It will be pertinent to mention here that as against applicant no.1, the present application stands disposed of as withdrawn, vide order dated 19.10.2023. We are, therefore, now considering the case of applicant nos.2 to 9 for quashment of FIR.

6. Shri A.S. Barlota, learned counsel for the applicants has referred to the FIR to contend that admittedly, applicant no.1 and respondent no.2 were residing separate from other applicants. He states that there was matrimonial discord *inter-se* between applicant no.1 and respondent no.2 as a consequence of which respondent no.2 has falsely implicated all the family members in the offence. He states that allegations in the FIR against applicant nos.2 to 9 are completely

general and vague in nature. He also states that the allegations are omnibus. He draws our attention to the pleadings in the domestic violence case filed by respondent no.2 in order to further his contention that the allegations in the FIR are incorrect. He, therefore, prays that FIR and the criminal proceedings be quashed.

7. As against this, Shri N.R. Dayama, learned APP for the State argues that the allegations are specific and demonstrate role of each of the applicants. He further states that FIR can not be considered to be an encyclopedia of the facts and particulars with respect to the allegations in the FIR can be provided during the course of depositions in the trial.

8. Shri Prashant P. Giri, learned counsel for respondent no.2 also contends that there is allegation regarding demand of Rs.2,00,000/- against all the applicants as also allegations of instigation by applicant nos.2 to 9 to applicant no.1 to cause physical and mental cruelty to respondent no.2.

9. We have perused FIR and other material in the charge-sheet with the able assistance of learned Advocates appearing in the matter. Perusal of the charge-sheet will indicate that applicant no.1 and

respondent no.2 stayed at Nagpur where applicant no.1 was posted while the others applicants including the parents-in-law resided separate at Buldhana. It is alleged that intermittently applicant nos.2 to 9 used to visit the house at Nagpur and during the course of their visit, they used to illtreat respondent no.2 and also instigate applicant no.1 to harass and cause mental and physical cruelty to respondent no.2. It is alleged that applicant no.1 used to demand Rs.2,00,000/- from the parents of respondent no.2 and other applicants supported and instigated to press for the said demand and cause mental and physical harassment to respondent no.2 so as to force her parents to meet the demand. Respondent No.2 has stated that since last 10 months prior to lodging of FIR i.e. from somewhere around third week of August, 2023, she was residing at her parental house due to such harassment and illtreatment amounting to cruelty.

10. Perusal of the FIR will demonstrate that respondent no.2 has not attributed any specific role individually to any of applicant nos.2 to 9. Applicant Nos.2 and 3, the parents-in-law were admittedly not residing with applicant no.1 and respondent no.2. Applicant Nos.3 to 7 are married sisters-in-law, who also resided separately. Applicant Nos.8 and 9 are husbands of two of the sisters-in-law, who also admittedly resided separately. Applicant Nos.2 to 9 are residents of

Buldhana and Aurangabad. There is no dispute in this regard. It is rather a admitted fact. The marriage of respondent no.2 was solemnized with applicant no.1 on 09.05.2021. She has left the matrimonial house somewhere around August, 2022. She has thus stayed with applicant no.1 for a period of around 15 months. Perusal of the FIR does not indicate as to on how many occasions tentatively applicant nos.2 to 9 visited the residence of respondent no.2 at Nagpur where the harassment was allegedly caused. Respondent No.2 has used general words “physical and mental harassment” without providing any particulars thereof. The tentative period of alleged harassment is also not stated. Section 498-A of IPC is in the nature of shield to protect women from their in-laws. It cannot be allowed to be used as a tool to harass in-laws. It will be pertinent to mention here that applicant no.1 has filed a divorce petition, being Petition No.A-170/2023 before the learned Family Court at Nagpur on 20.02.2023. The FIR is filed shortly thereafter. It appears to be a counter blast. Having regard to the totality of allegations in the FIR which are reiterated in Section 161 statements, we are of the considered opinion that the continuation of prosecution against applicant nos.2 to 9 will amount to abuse of the legal process, in as much as, uncontroverted material on record fall miserably short of making out any case against them for the alleged offences. Since no case is made out against applicant nos.2 to 9, it will be in the interest of

justice to quash the FIR and the criminal case against them. Hence, we pass the following order :-

ORDER

- (i) The application is partly allowed.
- (ii) The application with respect to applicant no.1 - Satish S/o Manik Gavai stands disposed of as withdrawn.
- (iii) FIR No. 170/2023 and F.I.R. No. 171/2023 registered with Police Station, Jafrabad, Dist.Jalna, for the offences punishable under Sections 498-A, 323, 504 read with Section 34 of the IPC on 22.06.2023 and Regular Criminal Case No.213/2023 pending on the file of the learned Judicial Magistrate, First Class, Jafrabad, Dist.Jalna are hereby quashed against applicant no.2- Manik S/o Annaji Gawai, applicant no.3 - Sindhu W/o Manikrao Gawai, applicant no.4 - Suraksha W/o Jeevan Shegaonkar, applicant no.5 - Varsha W/o Nilesh Telgote, applicant no.6 - Reshma W/o Prakash Tayde, applicant no.7 - Sushma W/o Swapnil Gaikwad, applicant no.8 - Prakash S/o Shrikrushna Tayde and applicant no.9 - Nilesh S/o Rajaram Telgote.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

sga/