



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

CRIMINAL APPLICATION NO. 3878 OF 2022

1. Milind Madhukarrao Khadke
Age : 37 years, Occ : Private Service,
R/o c/o Ajit Mohan Paigude
Paigude Complex Block Sector,
Sambhaji Nagar Road, Baif Wagholi,
Pune.
2. Madhukarrao Sundarrao Khadke
Age : 66 years, Occ : Pensioner,
3. Pushpa Madhukarrao Khadke
Age : 62 years, Occ : Household,
4. Makarand Madhukarrao Khadke
Age : 40 years, Occ : Private Service,
5. Tanuja Makarand Khadke
Age : 36 years, Occ : Household,

Nos.2 to 5 All R/o Plot No.15,
Gat No.93P, Saikamal Reshidenshi,
Ranjitnagar, Laxminivas, Satara,
Aurangabad, Tq. & Dist. Aurangabad

..APPLICANTS

-VERSUS-

1. The State of Maharashtra
Through its Police Station Officer,
Satara Police Station, Aurangabad
Dist. Aurangabad.
2. Kalpana Milind Khadke
Age : 36 years, Occ : Private Service,
R/o c/o Shri Patel, Near Renuka Mata Mandir,
N-9, Cidco, Jalgaon Road,
Aurangabad.

..RESPONDENTS

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Advocate for the applicants : Mrs. Ratna R. Mane
APP for Respondent- State : Mr. G.A. Kulkarni
Advocate for respondent No.2 : Ms. Anjali H. Dhate (Kulkarni)

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**CORAM : SMT. VIBHA KANKANWADI AND
ROHIT W. JOSHI, JJ.**
DATED : 17th JANUARY, 2025.

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

. Respondent No.2 in the present matter has lodged F.I.R. No.0358/2022 on 15.10.2022 with Satara Police Station, Dist.Aurangabad, for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code against applicant nos.1 to 5, who are her husband, father-in-law, mother-in-law, brother-in-law and sister-in-law respectively.

2. The marriage of respondent no.2 was solemnized with applicant no.1 on 05.07.2018. Applicant No.1 was in employment at Pune at the relevant time. Respondent No.2 accompanied applicant no.1 to his residence at Pune after a short period of around 5-10 days after the marriage. She states that for initial period of around six months from the date of marriage, the things were all right. However, thereafter, applicant nos.2 to 5 started instigating applicant no.1 – husband against her, as a consequence of which applicant no.1 used to abuse and beat her. She has alleged that all the applicants used to ask her to bring money from her parents for buying a house at Pune, and

further that since the demand could not be fulfilled, they used to abuse and beat her. She has alleged that initially, she was forcibly evicted from her matrimonial home by her in-laws, however, the issue was resolved with intervention of relatives from both sides and she started cohabiting with applicant no.1 thereafter. She alleges that even after the said reconciliation, applicant no.1 did not keep his word and continued harassment and illtreatment for not being able to fulfill his monetary demand. She also alleges that applicant no.1 started raising doubt about her character. Respondent No.2 has alleged that she had started residing separate from applicant no.1 since he had expressed that he wants to stay alone for few days. She has stated that on 02.04.2022, she learnt that applicant no.1 had come to visit her parents at Aurangabad and she had been there to meet him. However, all the applicants abused and beat her and when she reached the house, they forcibly took her to a private hospital at Aurangabad with an ulterior motive to declare her as mentally challenged person. She states that on her opposition to take treatment in private hospital, she was allowed to leave the hospital and thereafter she went to Government Hospital and Training Institution at Aurangabad for treatment. With these allegations, the F.I.R. has been registered, pursuant to which respondent no.1 has conducted investigation and filed charge-sheet on 05.03.2023 pursuant to which Regular Criminal Case No.968/2023 is

registered against the applicants, which is pending on the file of the learned Judicial Magistrate, First Class, Aurangabad.

3. As regards applicant no.1, the application is disposed of as withdrawn, vide order dated 07.12.2022.

4. We have heard Advocate Mrs. Ratna Mane, learned counsel for the applicants, Shri G.A. Kulkarni, learned APP for respondent no.1 and Ms. Anjali Dhate (Kulkarni), learned counsel for respondent no.2.

5. Learned counsel for the applicants contends that the allegations are non-specific and omnibus in nature. Applicant Nos.2 to 5 were not residing with applicant no.1 and respondent no.2. Their names have been involved with ulterior motive in order to settle score against applicant no.1.

6. As against this, it is submitted on behalf of respondent nos.1 and 2 that the allegations are clear and precise and in the face of the said allegations, F.I.R. cannot be quashed in exercise of powers under Section 482 of the Code of Criminal Procedure (Cr.PC.).

7. We find that applicant no.1 and respondent no.2 resided at Pune whereas, applicant nos.2 to 5 resided at Aurangabad all the while. The principal grievance of respondent no.2 is clearly against her

husband- applicant no.1. The allegations in the FIR against applicant nos.2 to 5 are that they used to instigate applicant no.1 to illtreat and harass respondent no.2. We may, however, mention here that the allegations are lacking in material particulars. The FIR does not disclose the alleged manner of illtreatment or harassment or acts causing cruelty. The tentative periods thereof are also not mentioned. There is reference to the incident, which has allegedly occurred on 02.04.2022 where she alleges that all the applicants had beaten her. However, this incident is not related to demand for dowry. It will be pertinent to mention here that admittedly, on the said day, respondent no.2 was taken to private hospital by her husband-applicant no.1. Had such an incident has occurred as is alleged, the applicants would not run the risk of taking respondent no.2 to the hospital immediately after the incident where she would reveal her alleged ordeal to other people. The allegations appear to be an attempt to implicate family members of estranged husband. The allegations against applicant nos.2 to 5 are omnibus in nature. At all places in the FIR collective role is attributed to applicant nos.2 to 5. Respondent No.2 has not been able to attribute any individual role to applicant nos.2 to 5. Likewise, particulars of alleged illtreatment such as tentative period, as also mode and manner of same is not mentioned in the FIR. Perusal of the FIR indicates that the principal grievance of respondent no.2 is against her husband. She

has also shifted to Pune to reside with applicant no.1 her husband.

8. In the result, having regard to the totality of circumstances emerging from the material on record, we are of the considered opinion that continuation of prosecution against the applicant nos.2 to 5 will not yield any fruitful purpose and will only amount to abuse of legal process. Hence we pass the following order :-

ORDER

- (i) The application is partly allowed.
- (ii) The application with respect to applicant no.1 - Milind Madhukarrao Khadke stands disposed of as withdrawn.
- (iii) F.I.R. No.0358/2022 on 15.10.2022 with Satara Police Station, Dist.Aurangabad, for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and Regular Criminal Case No.968/2023 pending on the file of the learned Judicial Magistrate, First Class, Aurangabad are hereby quashed against applicant no.2-Madhukarrao Sundarrao Khadke, applicant no.3 - Pushpa Madhukarrao Khadke, applicant no.4 - Makarand Madhukarrao Khadke and applicant no.5 - Tanuja Makarand Khadke.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

sga/