



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

CRIMINAL APPLICATION NO. 3819 OF 2023
(WITH CRIMINAL APPLICATION NO. 4858 OF 2024)

1. Arun S/o Uttam Paikrao
Age : 31 years, Occ : Education,
R/o Diggi, Tq. Kalmnuri, Dist. Hingoli
At present R/o Nageshwarwadi,
Aurangabad.
2. Archana W/o Gajanan Bhagat
Age : 35 years, Occ : Household,
R/o Bhavishya Dipnagar,
Salampure Nagar, Wadgaon Kolhati,
Waluj, Tq. & Dist. Aurangabad.
3. Kanchan W/o Madhukar Balkhande
Age : 34 years, Occ : Household,
R/o Jijamata Nagar, Tq. & Dist. Hingoli.

..APPLICANTS

-VERSUS-

1. The State of Maharashtra
Through Police Station In charge,
Police Station Basamba, Tq. & Dist. Hingoli.
2. Sandhya W/o Prakash Paikrao
Age : 30 years, Occ : Household,
R/o C/o. Rahul Balkhande house,
Lahora, Tq. & Dist. Hingoli

..RESPONDENTS

...
Advocate for the applicants : Mr. Chandrakant P. Patil
APP for Respondent- State : Mr. A.R. Kale
Advocates for respondent No.2 : Mr. Sopan K. Hingole

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

DATED : 10th JANUARY, 2025

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

. The Applicants have filed the present application under Section 482 of the Code of Criminal Procedure (Cr.P.C.), *inter alia*, praying that F.I.R. No.240/2023 registered against them with Basamba Police Station, Dist. Hingoli on 30.08.2023, for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code (I.P.C.) and Regular Criminal Case No.447/2023, which is pending on the file of learned Judicial Magistrate, First Class, Hingoli be quashed.

2. The Applicants are related to Respondent No.2 – Informant as under :-

- (i) Applicant No.1 – brother-in-law
- (ii) Applicant No.2 –married sister-in-law
- (iii) Applicant No.3 - married sister-in-law

3. The marriage of Respondent No.2 was solemnized with Prakash S/o Uttam Paikrao on 28.05.2010. The couple is blessed with son and daughter from the wedlock. Respondent No.2 has stated that after the marriage, she went to reside with her husband at her matrimonial home, where they were residing along with parents-in-law

and brother in law/Applicant No.1. She alleges that for a period of about 5-6 months after the marriage, in-laws treated her well and thereafter, the husband, parents-in-law and Applicant No.1 – brother-in-law started taking up quarrel with her on one ground or the other. She alleges that mother-in-law used to instigate the husband against Respondent No.2 as a consequence of which he would beat her. It is alleged that father-in-law used to insult her on the ground that her parents did not offer adequate gifts and other articles at the time of marriage. The matrimonial house of Respondent No.2 where she had started residing after the marriage is at village Diggi, Tq. Kalmnuri, Dist. Hingoli. As per the F.I.R. after the birth of two children, Respondent No.2 had shifted to Aurangabad along with her husband and their children.

4. It is alleged that the husband, parents-in-law and Applicant No.1 used to harass Respondent No.2 mentally as well as physically as a consequence of which she started residing at her parental house from 12.02.2023.

5. As regards Applicant Nos.2 and 3, who are married sisters-in-law, the allegations are that although they are residing separately in their respective matrimonial home, they would visit their

parental home intermediately on festivals and other occasions and they used to illtreat Respondent No.2 during such visits by making complaints saying that she does not look well and also she does not cook well. As regards Applicant No.1 there is allegation that he used to abuse Respondent No.2 for one or other reason and illtreat her. It is also alleged that Applicant No.1 also used to instigate his brother i.e. husband of Respondent No.2 to beat her. There is common allegation against the husband, parents-in-law and the present Applicants that they used to ask Respondent No.2 to bring an amount of Rs.5,00,000/- from her parents for purchasing a tractor.

6. During the course of investigation, Respondent No.1 has recorded statements of brother – Rahul, his wife-Chhayabai, his son – Kiran and two villagers from the parental village of Respondent No.2. The brother, his wife and son have given statements similar to the contents in the F.I.R. The statements of two villagers are relating to the allegations in the F.I.R. and reconciliation meeting held between the husband and wife and other relatives.

7. On perusal of the F.I.R. and material gathered during the course of investigation, we find that initially for a short period after marriage, Respondent No.2 resided at her matrimonial home and the

applicant No.1 was also residing in the same house. Thereafter Respondent No.2 and her husband shifted to Aurangabad and since then Applicant No.1 was not residing with Respondent No.2 and her nuclear family. Applicant Nos.2 and 3 are married sisters, who never resided together with Respondent No.2 and her nuclear family. The marriage of Respondent No.2 was solemnized in the year 2010, F.I.R. is lodged in the year 2023 after a period of 13 long years. There is an allegation against all the Applicants and their parents as also their brother/husband of Respondent No.2 that they used to demand a sum of Rs.5,00,000/- for purchasing tractor. These allegations are omnibus in nature. The allegations are levelled without providing any particulars with respect to date, time and tentative period. This fact assumes importance since Respondent No.2 has lodged F.I.R. 13 years after her marriage and has alleged that the harassment had started after a period of 5-6 months from the date of marriage. The allegations are not confidence inspiring atleast against the present Applicants. The attempt to over implicate siblings of estranged husband are apparent from meaningful reading of the F.I.R. We may also mention that there is absolutely no material either in the F.I.R. or in 161 statements to attribute any common intention to the present Applicants and other family members with respect to offence under Section 498-A of the IPC. Respondent No.2 has unnecessarily implicated the present Applicants in

the matter without being able to provide any details and particulars with respect to alleged illtreatment and harassment. The contents of the F.I.R. and other material in the charge-sheet even if accepted to be true and correct fall miserably short of making out essential ingredients of Section 498-A of the IPC. In such circumstances, the criminal prosecution cannot be allowed to continue against the present applicants. Hence, we pass the following order :-

ORDER

- (i) The application is allowed.
- (ii) The F.I.R. No.240/2023 registered with Basamba Police Station, Dist.Hingoli on 30.08.2023, 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.447/2023 pending on the file of learned Judicial Magistrate, First Class, Hingoli are hereby quashed against Applicant No.1 - Arun S/o Uttam Paikrao, Applicant No.2 - Archana W/o Gajanan Bhagat and Applicant No.3 - Kanchan W/o Madhukar Balkhande.
- (iii) Criminal Application No. 4858/2024 stands disposed of.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

sga/