



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.4181 OF 2023

- 1) Ashwini Mahesh Bhambarkar,
Age-24 years, Occu:Household,
- 2) Sujata Raju Jadhav,
Age-45 years, Occu:Household,
- 3) Raju S/o Bhagwant Jadhav,
Age-50 years, Occu:Agril.,
- 4) Akash Raju Jadhav,
Age-23 years, Occu:Service,

All R/o-Wadgaon Amli,
Tq-Parner, Dist-Ahmednagar.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Police Station Officer,
Kotwali Police Station, Ahmednagar,
Tq. and Dist-Ahmednagar.
- 2) Mahesh S/o Prabhakar Bhambarkar,
Age-24 years, Occu:Business,
R/o-Rani Laxmibai Chowk, Bhushannagar,
Kedgaon, Tq. and Dist-Ahmednagar.

...RESPONDENTS

...
Mr. Rajendra S. Kasar Advocate for Applicants.
Mr. S.A. Gaikwad, A.P.P. for Respondent No.1.
Mr. N.B. Narwade Advocate for Respondent No.2.

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

DATE : 30th JANUARY, 2025

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

1. Present Application has been filed under Section 482 of the Code of Criminal Procedure for quashing the proceedings in R.C.C. No.1685 of 2022 pending before the learned Chief Judicial Magistrate, Ahmednagar, for the offence punishable under Sections 406, 420, 201, read with Section 34 of the Indian Penal Code, arising out of the First Information Report (for short "the FIR") vide Crime No. 584 of 2022 registered on 26th July 2022, with Kotwali Police Station, Ahmednagar.

2. Heard learned Advocate Mr. Kasar for the applicants, learned APP Mr. Gaikwad for respondent No.1 and learned Advocate Mr. Narwade for respondent No.2.

3. Before we proceed to consider the case in detail, the facts which are not disputed, are that applicant No.1 is the wife of respondent No.2. They got married on 22nd May 2022. It is further not in dispute that due to the differences between them, they are not residing together.

4. Learned Advocate for the applicants has taken us through the contents of the FIR and the charge-sheet and submits that respondent No.2 accepts that after the marriage applicant No.1 joined him in cohabitation, however, according to respondent No.2, applicant No.1 - wife has instigated him to demand the shop which was in possession of his parents. It is the electrical shop situated at village Kedgaon, Taluka and District-Ahmednagar. According to respondent No.2, applicant No.2 who is the mother of applicant No.1, applicant No.3 who is father of applicant No.1 and applicant No.4 who is the brother of applicant No.1, used to instigate applicant No.1, who then used to instigate respondent No.2 to demand separate residence and possession of the shop. Respondent No.2 went to Pune on 25th June 2022, in search of work as his parents refused to handover possession of the shop to him. While going from his house, respondent No.2 had taken cash of Rs.2,50,000/-, kept by his parents with him. According to respondent No.2, after he left for Pune, applicant No.1 had also left the matrimonial home by taking her ornaments and clothes, and went to her parents house. She had then kept her status on WhatsApp, defaming the family of respondent No.2, on 30th June 2022. According to

respondent No.2, applicant No.1 was giving insulting treatment, so also applicant Nos.2 to 4 were also showing disrespect to him and used to say that applicant No.1 got married to him only after considering the property and money in his hand. Respondent No.2 had searched for a flat on rent at Kedgaon and had joined the job in Excide Company in M.I.D.C., Ahmednagar. He started residing with wife and mother-in-law, but applicant No.1 was not giving him tiffin. Applicant No.1 was refusing to work or give anything to eat to him. Respondent No.2 says that he was spending the amount from the cash he had brought from his parents house, but still the wife was not satisfied. He left her on 15th June 2022, at her parents house. Respondent No.2 says that immediately applicant No.2 had sent applicant No.1 along with her nephew, to the flat on 16th June 2022, and at that time the cash amount of Rs.2,35,000/- and gold ornaments were taken away by the applicants. Thereafter applicant No.1 refused to cohabit with respondent No.2.

5. Learned Advocate for the applicants submits that the said allegations in the FIR are just to harass the wife and her relatives. In fact, applicant No.1 had given a complaint to District Superintendent of Police, Ahmednagar on 28th July 2022. Even if we consider the contents of the FIR as it is, the ingredients of

Section 420, 406 read with Section 34 of the Indian Penal Code are not at all attracted. The charge-sheet would show that there is no recovery from the applicants. Unnecessarily, thereafter the offence under Section 201 of the Indian Penal Code came to be added at the time of charge-sheet.

6. Learned Advocate for respondent No.2 and learned APP have objected to the quashment of the FIR and the proceedings. Learned Advocate for respondent No.2 relies on the affidavit-in-reply of respondent No.2, which is nothing but reproduction of the contents of the charge-sheet. He submits that respondent No.2 has tried to behave as per the terms of the wife and her family members and it appears that he went against his parents, yet the wife was not satisfied at all. The wife had no intention to cohabit with respondent No.2. Thereafter, there was also an attempt to arrive at a compromise and take applicant No.1 for cohabitation but she refused. Now the investigation is over. Statements of witnesses have been recorded and therefore, let the trial be held.

7. At the outset, we would like to say that as regards the gold ornaments are concerned, the contents of the FIR as well as the statements of parents of respondent No.2 and other witnesses

would show that those ornaments were given to applicant No.1 at the time of marriage. They might have been purchased by the husband – respondent No.2, still when those ornaments have been given at the time of marriage, then it becomes her 'Stridhan' and therefore, she is the owner of the property as well as the legal possessor. The husband cannot have any objection in respect of the same. If those ornaments are taken away by her, it will not amount to any offence. By no stretch of imagination it can be said that those gold ornaments, which were given at the time of marriage to the wife, would be an entrustment as contemplated under Section 405 of the Indian Penal Code. There is also no question of deception if applicant No.1 keeps those ornaments with her.

8. Further, as regards the cash of Rs.2,50,000/- or Rs.2,35,000/- is concerned, except the bare statements, there is nothing. The source of that amount has not been stated. Merely because the husband and his family members are having electrical shop, that does not mean that they might be possessing such amount with them. If that amount was from the business, then there ought to have been reflection of such amount in the books of accounts of the shop. No such document is produced to support the contentions. If the existence of that

amount with the husband – respondent No.2 is not even shown *prima facie*, question of taking away that amount will not arise.

9. As regards Section 420 of the Indian Penal Code is concerned, the deception should be since beginning. The contents of the FIR does not disclose that there was any element of deception since beginning. It is the normal procedure that at the time of settlement of marriage an inquiry would be made in respect of earnings of the would be bridegroom. Therefore, even if it would have been disclosed by respondent No.2 and his family members that respondent No.2 is looking after the affairs of the electrical shop and they are having agricultural land, that cannot be considered as a method to deceive or planning to deceive the informant and his family members. The FIR is nothing but the outcome of the marital discord, in which applicant Nos. 2 to 4 appears to have been unnecessarily dragged. Even if for the sake of arguments it is accepted that there was some instigation for some behaviour from applicant No.2 to applicant No.1, yet it cannot be said that such instigation was with the criminal intention.

10. The Application, therefore, requires to be allowed and the proceedings are required to be quashed and set aside to prevent

the abuse of process of law. Hence, we pass following order:-

ORDER

(I) The Application stands allowed.

(II) The proceedings in R.C.C. No.1685 of 2022 pending before the learned Chief Judicial Magistrate, Ahmednagar, for the offence punishable under Sections 406, 420, 201, read with Section 34 of the Indian Penal Code, arising out of the First Information Report vide Crime No. 584 of 2022 registered on 26th July 2022, with Kotwali Police Station, Ahmednagar, stands quashed and set aside as against applicant Nos. 1 to 4 i.e. - 1) Ashwini Mahesh Bhambarkar, 2) Sujata Raju Jadhav, 3) Raju S/o Bhagwant Jadhav and 4) Akash Raju Jadhav.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

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