



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4969 OF 2024

1. Ajit Ganpat Lenkar
 Age: 49 years, Occu.: Business,
 R/o. Plot No.301, Shashikala
 Mansion Bungalow, Bhabanagar,
 Anant Elvation Nashik,
 Tq. And Dist. Nashik.

2. Shashikala Ganpat Lenkar
 Age: 70 years, Occu.: Business,
 R/o. Plot No.301, Shashikala Mansion
 Bungalow, Bhabanagar, Anant
 Elevation Nashik,
 Tq. And Dist. Nashik.

3. Sandip Ganpat Lenkar
 Age: 51 years, Occu.: Business,
 R/o. Plot No.301, Shashikala Mansion
 Bangalow, Bhabanagar, Anant Elevation
 Nashik, Tq. And Dist. Nashik

.. Applicants

Versus

1. The State of Maharashtra
 Through Shrirampur Taluka
 Police Station, Tq. Shrirampur,
 District Ahmednagar.

2. Komal Ajit Lenkar,
 Age: 31 years, Occu.: Household,
 R/o. Taklibhan, Tq. Shrirampur,
 Dist. Ahmednagar.

.. Respondents

...

Mr. Rahul A. Tambe, Advocate for the applicants.

Mrs. Rashmi P. Gour, APP for respondent No.1/State.

Mr. Ajit B. Kale, Advocate i/b Ms. Sakshi A. Kale, Advocate for respondent No.2.

...

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

**RESERVED ON : 18 JUNE 2025
PRONOUNCED ON : 21 JULY 2025**

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Present application has been filed for quashing the proceedings in Regular Criminal Case No.290 of 2024 pending before the learned Judicial Magistrate First Class, Shrirampur, District Ahmednagar arising out of the FIR vide Crime No.386 of 2023 registered with Shrirampur Taluka Police Station, District Ahmednagar for the offences punishable under Sections 498-A, 406, 342, 323, 504, 506 read with Section 34 of Indian Penal Code.

2. Heard learned Advocate Mr. Rahul A. Tambe for the applicants, learned APP Mrs. Rashmi P. Gour for respondent No.1/State and learned Advocate Mr. A. B. Kale instructed by learned Advocate Ms. Sakshi A. Kale for respondent No.2.

3. Learned Advocate for the applicants has vehemently submitted that the FIR is nothing but the act of vengeance. The marriage between applicant No.1 and respondent No.2 was performed on 10.06.2019 and as per her own say she was treated properly for about 5-6 months. Then she says that the husband started harassing her by making demand of Rs.20,00,000/- as he had suffered loss in his construction business. She

states that she was left with her parents within six months. She had then filed petition for restitution of conjugal rights on 22.01.2021 before the Newasa Court. As per the order of the Court dated 14.12.2022, she went for cohabitation at Nashik, still it is her contention that applicant No.1 started saying that she should bring the amount and she has been brought only because of the order of the Court. She then states that applicant No.1 had not disclosed about his first marriage and having son aged 12 at the time of the marriage. Still she then says that she was cohabiting somehow with applicant No.1. This alleged non disclosure ground for the first time has pretended after 2022 is false because in her notices dated 30.11.2020 and 07.01.2021, there is specific mention about applicant No.1's divorce with his first wife. It is then stated that at Nashik, applicant No.1 was raising doubts over her chastity and he was intentionally behaving in such a way which would raise question over the character. It is then stated that for 2½ months somehow she cohabited, but around 10.00 p.m. on 27.02.2023 it is alleged that she was assaulted by the husband by making demand of Rs.20,00,000/- and the other applicants had abused and threatened her. They took away her ornaments. She informed the said fact to her father. Her father had taken help of Mumbai Naka Police Police Station, Nashik at 5.00 a.m. on 28.02.2023 and brought her back to his home. There is a statement of one Rajendra Bhikaji Nakode, Police Constable of Mumbai Naka Police

Station, Nashik, wherein he states that as per the call given, he went to the house of the applicants. He made inquiry with applicant No.1 as to where his wife is. It was told that his wife and himself are the only two persons residing in the house and his wife is sleeping in the bedroom on the upper floor. They woke the informant and made inquiry with her whereupon she told before him that after the dinner, there was dispute between herself and her husband on the count of dinner. At that time, she was assaulted and slapped by the husband, then she took three bags with her, lodged N.C.R. No.193 of 2023 for the offences punishable under Sections 323, 504, 506 of Indian Penal Code. The applicant had the chance to give the entire details and lodge an offence under Section 498-A and 406 of Indian Penal Code also, however, she has not done that. This shows that she wanted to harass the applicants. The other witnesses are the parents and relatives. As regards the ornaments are concerned, there are documents of the applicants also which would show that the ornaments worth more than Rs.1,00,000/- were purchased by applicant No.2 on the occasion of the marriage of the son. When unnecessarily the applicants have been roped in, it would be the fit case where the powers under Section 482 of the Code of Criminal Procedure are required to be exercised.

4. Per contra, the learned APP as well as learned Advocate for respondent No.2 strongly opposed the application and submitted that the

entire evidence that has been collected would show that the informant was harassed on the count of demand of Rs.20,00,000/- and in spite of the decree, yet she was not given honourable treatment. She had lodged the report with Mumbai Naka Police Station, Nashik about the incident that had taken place on 27.02.2023, but it cannot be the hurdle for her to lodge a detailed report after she came in safe environment i.e. with her parents.

5. At the outset, we would say that if we consider the entire FIR, the allegations against the mother-in-law and brother-in-law are omnibus. It is not stated in specific words that the said demand of Rs.20,00,000/- prior to the decree of restitution of conjugal rights was on behalf of applicant Nos.2 and 3 also. Of course, there is room to believe that the reason as regards non disclosure of the earlier marriage and the son born out of the first marriage appears to be wrong and false, because the notices those were issued are on record, which contain about her knowledge about the earlier marriage of applicant No.1. So also, in her Hindu Marriage Petition No.12 of 2021 filed on 22.01.2021, she had mentioned about the first marriage of applicant No.1, still she compromised the matter and the dispute with applicant No.1 and the compromise pursis was seen and verified by the concerned Court on 14.12.2022. It was then stated that she would be staying with the husband and there is a specific stipulation that she will not insist for

residing in the house of applicant No.2. Now, she cannot go away from those terms which were verified before the competent Court. She has in fact suppressed the terms of settlement in her FIR. She has not stated that in spite of such terms, term No.2 was not adhered to. That means, after 14.12.2022, applicant Nos.2 and 3 were not residing with applicant No.1 and respondent No.2. This can be said to be supported by the statement of Police Head Constable Rajendra Nakode, who had gone to the house on 27/28.02.2023 and had found that applicant No.1 and respondent No.2 were only persons in the house. Certainly, it appears that their names have been taken with *mala fide* intention.

6. Another fact to be noted is that the informant alleges that her ornaments worth Rs.10,30,000/- were taken by the accused persons. The evidence on record would indicate that if applicant Nos.2 and 3 were not residing with applicant No.1 and respondent No.2, then question of applicant Nos.2 and 3 taking away the ornaments does not arise. In the FIR, she has specifically stated that those ornaments were taken in the intervening night of 27.02.2023 and 28.02.2023. At no point of time even in her Hindu Marriage Petition she has stated that her ornaments have been taken away or she had given it to applicant No.2 in any manner and applicant No.2 has not returned them. The terms of settlement does not make a mention about such ornaments. For proving an offence under Section 406 of Indian Penal Code is concerned 'entrustment' is

required to be shown and that basic ingredient is missing. The other Sections are non cognizable and, therefore, definitely, case is made out for exercise of powers under Section 482 of the Code of Criminal Procedure in favour of applicant Nos.2 and 3, as it would be abuse of process of law to ask them to face the trial.

7. However, there appears to be some element i.e. *prima facie* allegations against applicant No.1 and, therefore, we are not inclined to grant the relief in favour of applicant No.1. Hence, the following order :-

ORDER

- I) Criminal Application stands partly allowed.
- II) Criminal Application stands rejected in respect of applicant No.1 - **Ajit Ganpat Lenkar**.
- III) Criminal Application Stands allowed in respect of applicant Nos.2 and 3.
- IV) The proceedings in Regular Criminal Case No.290 of 2024 pending before the learned Judicial Magistrate First Class, Shrirampur, District Ahmednagar arising out of the FIR vide Crime No.386 of 2023 registered with Shrirampur Taluka Police Station, District Ahmednagar for the offences punishable under Sections

498-A, 406, 342, 323, 504, 506 read with Section 34 of Indian Penal Code, stands quashed and set aside as against applicant Nos.2 - **Shashikala Ganpat Lenkar** and applicant No.3 - **Sandip Ganpat Lenkar**.

[**SANJAY A. DESHMUKH**]
JUDGE

[**SMT. VIBHA KANKANWADI**]
JUDGE

scm