



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

38 CRIMINAL APPLICATION NO.4314 OF 2023

- 1 Karbhari Ramdas Kuklare,
Age 43 yrs., Occ. Private Service,
- 2 Sumanbai Ramdas Kuklare,
Age 66 yrs., Occ. Housewife,
- 3 Subhash Ramdas Kuklare,
Age 40 yrs., Occ. Agri.,
- 4 Savita w/o Raju Badekar,
Age 37 yrs., Occ. Housewife,
- 5 Prakash Shivaji Shelar,
Age 33 yrs., Occ. Agri.,
- 6 Santosh Asaram Dhanure,
Age 36 yrs., Occ. Agri.,

All are r/o Polranjangaon,
Tq. Gangapur, Dist. Aurangabad.

... Applicants

... **Versus** ...

- 1 The State of Maharashtra
Through Sillegaon Police Station,
Aurangabad (Rural).
- 2 Komal w/o Karbhari Kuklare,
Age 25 yrs., Occ. Housewife,
C/o Parvatibai Ghitre,
R/o Raipur, Tq. Gangapur,
Dist. Aurangabad.

... Respondents

...

Mr. Sujit S. Kulkarni, Advocate for applicants

Mr. N.R. Dayama, APP for respondent No.1

Mr. B.S. Bhale, Advocate for respondent No.2 - **absent**

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

DATE : 23rd JANUARY, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed initially for quashing First Information Report vide Crime No.349/2023 dated 22.10.2023 registered with Sillegaon Police Station, Aurangabad (Rural) and later on by way of amendment for quashing of charge sheet No.167/2023 dated 19.12.2023 i.e. proceedings in Regular Criminal Case No.44/2024 pending before learned Judicial Magistrate First Class, Gangapur, Tq. Gangapur, Dist. Aurangabad, for the offence punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code, 1960.

2 Heard learned Advocate Mr. Sujit S. Kulkarni for applicants and learned APP Mr. N.R. Dayama for respondent No.1. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 What is not in dispute is that informant and applicant No.1 got married on 01.05.2012. They are blessed with daughter aged 10 and son aged 07 when the First Information Report was lodged. The relationship of the applicants is not disputed. Applicant No.1 is husband, applicant No.2 is mother-in-law, applicant No.3 is brother-in-law and applicant No.4 is sister-in-law of respondent No.2, applicant No.5 is maternal cousin of applicant No.1 and applicant No.6 is distant relative (cousin maternal brother-in-law of applicant No.1).

4 First Information Report lodged by respondent No.2 would show that she was treated properly for about 3-4 years after marriage and thereafter in 2015 trifle disputes arose between informant, her husband and mother-in-law. She says that on trifle ground she was harassed, then her father-in-law expired in 2018. Applicant No.1 is serving in a company at Waluj and informant was conducting the affairs of Purneshwar Mobile and General Stores. Informant says that since she was required to talk to customers, applicant No.2 and applicant No.5, who was residing as a tenant in their house, used to instigate the husband and thereupon the husband used to raise suspicion over her character and abuse as well as assault her. Other accused persons used to instigate applicant No.1 and they used to say that applicant No.1 would perform second marriage. Applicant No.1 used to

demand money for repayment of loan on the house and under the influence of liquor applicant Nos.1 and 6 used to abuse her and asked her to go away from the house. She went to her paternal home at Raipur for some days, but even her brothers and mother were abused and threatened. Her brother has lodged a report at Sillegaon Police Station. Thereafter, there was compromise and she went for cohabitation, but, still there was no improvement in the behaviour of applicants. She could not bear the harassment and, therefore, came to her parental home on 31.04.2023 and then she lodged complaint with Women's Complaint Redressal Forum which did not result in the settlement, therefore, she lodged First Information Report.

5 Perusal of charge sheet would show that similar statements have been made in her complaint before Women's Complaint Redressal Forum and by witnesses under Section 161 of the Code of Criminal Procedure, who are mostly her relatives.

6 The first and the foremost fact to be noted is that informant was having daughter aged 10 and son aged 07, who can be said to be the persons of understandable age, but the Investigating Officer has not preferred to record their statements. They could have given the first hand information

regarding the behaviour of accused persons with their mother. We cannot give preference to statements of witnesses, who were not present when the alleged acts of harassment were made. Of course, the allegations against the husband are specific. Therefore, no case is made out for exercising inherent powers in his favour, however, as regards other applicants are concerned, allegations against them are omnibus. The long span of marital life of 11 years and more has not been so explained, which will depict cruelty as defined under Section 498-A of the Indian Penal Code. The application, therefore, deserves to be partly allowed. Hence, following order.

ORDER

- i) Criminal Application stands partly allowed.
- ii) Criminal Application stands rejected as against applicant No.1) **Karbhari Ramdas Kuklare.**
- iii) Criminal Application stands allowed as against applicant Nos.2) **Sumanbai Ramdas Kuklare, 3) Subhash Ramdas Kuklare, 4) Savita w/o Raju Badekar, 5) Prakash Shivaji Shelar and 6) Santosh Asaram Dhanure.**
- iv) Charge Sheet No.167/2023 i.e. proceedings in Regular Criminal Case No.44/2024 pending before learned Judicial Magistrate First Class,

Gangapur, Tq. Gangapur, Dist. Aurangabad arising out of First Information Report vide Crime No.349/2023 dated 22.10.2023 registered with Police Station, Sillegaon, Dist. Aurangabad, for the offence punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code, 1860 stands quashed and set aside as against applicant Nos.2 to 6.

(ROHIT W. JOSHI, J.)

(SMT. VIBHA KANKANWADI, J.)

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