



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

44 CRIMINAL APPLICATION NO.506 OF 2024

Kavita Ramesh Mistari (Sonwane),
Age 36 yrs., Occ. Service,
R/o Bhadgaon Road, Mukund Society,
Pachora, Dist. Jalgaon.
At present r/o Police Station, Fardapur,
Tq. Soygaon, Dist. Aurangabad.

... Applicant

... **Versus** ...

- 1 The State of Maharashtra
- 2 Sangitabai Deepak Shelar,
Age 42 yrs., Occ. Household,
R/o Sai Prasad Colony,
Near Sai Mandir, Market Yard,
Dhule, Tq. & Dist. Dhule.

... Respondents

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Mr. S.S. Jadhav, Advocate for applicant

Mr. A.M. Phule, APP for respondent No.1

Mr. S.A. Raut, Advocate h/f Mr. N.L. Choudhari, Advocate for respondent

No.2

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

DATE : 23rd APRIL, 2025

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

1 Present application has been filed for quashment of proceedings in Sessions Case No.125/2022 pending before learned Sessions Judge, Jalgaon arising out of First Information Report vide Crime No.143/2021 dated 25.05.2021 registered with Police Station, Pimpalgaon, Dist. Jalgaon, for the offence punishable under Sections 302, 304-B, 498-A, 120-B, 323, 504, 506, 201 read with Section 34 of the Indian Penal Code, 1860, Section 51-B of the Disaster Management Act, 2005 and Sections 2, 3, 4 of the Epidemic Disease Act, 1897.

2 Heard learned Advocate Mr. S.S. Jadhav for applicant, learned APP Mr. A.M. Phule for respondent No.1 and learned Advocate Mr. S.A. Raut holding for learned Advocate Mr. N.L. Choudhari for respondent No.2.

3 Learned Advocate for applicant submits that applicant is sister-in-law of deceased Ashwini. Deceased Ashwini was residing with her husband, in-laws at Pachora, Dist. Jalgaon, however, present applicant resides at Aurangabad. Applicant is serving as Police Constable and resided in different places in connection with performing her duty. Ashwini died when she was residing with informant and in First Information Report it is absolutely not stated that since the date Ashwini was residing with informant

i.e. from August, 2019 till 22.04.2021 the present applicant had met Ashwini. It is stated that on 22.04.2021 applicant's brother i.e. Ashwini's husband took Ashwini to matrimonial home by giving assurance that she would be treated properly. Ashwini expired on 24.05.2021. The entire charge sheet would show that none of the witnesses are stating that present applicant had met Ashwini or there is no evidence that applicant was contacting Ashwini on phone. Even as regards the offence under Section 498-A of the Indian Penal Code, it is stated that present applicant used to give pinching words or insulting treatment to Ashwini but on what count is not stated. There are documents those have been produced by applicant to show that she was residing separately at the place of her service and, therefore, it would be unjust to ask her to face the trial.

4 The application has been objected by learned APP for respondent No.1 as well as learned Advocate Mr. S.A. Raut holding for learned Advocate Mr. N.L. Choudhari for respondent No.2. Since the entire investigation is over, this Court is duty bound to consider all the allegations. Informant is mother of deceased Ashwini. There is no dispute as regards the fact that Ashwini got married to original accused No.1 Mukesh Ramesh Sonwane on 14.05.2019. The relationship between present applicant and deceased is also not disputed. It is stated that Ashwini was treated properly for about eight

days after marriage. Thereafter, Mukesh started saying that he does not like Ashwini, but he has love affair with another lady. The said lady started residing in the matrimonial home of Ashwini and then it is stated that along with said lady, present applicant, another sister-in-law and mother-in-law used to insult Ashwini and give pinching words to her as well as assaulting her. Mukesh was demanding amount of Rs.5,00,000/- from Ashwini for purchase of Swift Dzire car. When the harassment got intensified, the informant and her husband went to matrimonial home of daughter in August, 2019. They tried to persuade all, but they were not in a mood to listen. The demand persisted. When they went to Pachora Police Station to lodge report after Ashwini was driven out of the house, Police of Police Station, Pachora asked them to go to Women Cell, therefore, they brought Ashwini to their house and since then she was residing there with them. However, on 22.04.2021 Mukesh by giving promise to cohabit with Ashwini properly took her to matrimonial home. Then around 7.30 a.m. on 24.05.2021 when informant could not establish contact on the phone of Ashwini, she gave call to Mukesh, who informed them that Ashwini has expired. Therefore, informant and relatives went to Pachora and saw the dead body. There were injuries on her face, right hand, back etc. Therefore, informant says that son-in-law, three sisters-in-law, mother-in-law and lady, with whom Mukesh has relationship, had taken Ashwini in car on Pachora-Shendurni road and

caused her murder with some sharp weapon.

5 Postmortem Report gives cause of death as 'head injury', column No.15 shows surface wounds which are mostly abrasions and column No.18 states that left clavicle had fracture over middle 1/3rd. The injuries were antemortem, fresh and are possible with hard and blunt object. There were internal injuries also. Therefore, there appears to be unnatural death of Ashwini. There are statements of witnesses, which show that the police were informed about accident. Police Naik Mr. Arun Rajput, after receiving the information went to the place and saw the damage to the car. Mukesh was present there and he had given the account as to how the vehicular accident took place. Similar are the statements of other police persons, who went to the spot. There are statements of relatives of informant which are similar to First Information Report. There are statements of neighbouring ladies also to the matrimonial home of Ashwini. Witness Anita Patil states about the incident dated 23.05.2021. The ladies in their colony had decided to prepare 'Khichadi' around 7.30 to 8.00 p.m. Ashwini went near them and from her face they could gather that she was in tension. When question was asked, as to what has happened, she told that her husband has been tested Corona positive. However, around 8.00 to 8.30 p.m. Mukesh's car came in front of their house and, therefore, Ashwini went to house. After some time, husband

and wife came out. Ashwini went near those ladies with tiffin box, took Khichadi in the tiffin box and sat in the car. Husband and wife went in car. Similar is the statement of Mangalbai Sunil Pawar, Ushabai Kiran Patil, Suvarna Virendra Patil and Suresh Nagraj Patil. That means, on the earlier day there was no sign of applicant's presence in the matrimonial house of Ashwini and Ashwini had not disclosed any incident as caused by applicants to those ladies. There is statement of one Nitin Kailas Kalme, who appears to be the friend of Mukesh and neighbour of sister-in-law Savita Dinesh Marathe. After the khichadi tiffin was taken by Ashwini, Nitin Kalme says that he as well as one Raju Daga Patil, who is brother-in-law of Mukesh's sister, they as well as Mukesh and Ashwini had gone up to Shivneri gate of town Bhadgaon together and thereafter Mukesh asked them to get down. In the travelling it is stated that Mukesh had purchased Gutkha sachets and he was drinking liquor. He had thrown two liquor bottles on road. He gives then the story of accident. Thus, there is the story of accident also in the prosecution story. However, at any point of time the presence of applicant is not shown. Under such circumstance, it would be unjust to ask her to face the trial. Hence, following order.

ORDER

- i) Criminal Application stands allowed.

ii) The proceedings in Sessions Case No.125/2022 pending before learned Sessions Judge, Jalgaon arising out of First Information Report vide Crime No.143/2021 dated 25.05.2021 registered with Police Station, Pimpalgaon, Dist. Jalgaon, for the offence punishable under Sections 302, 304-B, 498-A, 120-B, 323, 504, 506, 201 read with Section 34 of the Indian Penal Code, 1860, Section 51-B of the Disaster Management Act, 2005 and Sections 2, 3, 4 of the Epidemic Disease Act, 1897, stands quashed and set aside as against applicant **Kavita Ramesh Mistari (Sonwane)**.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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