IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

985 CRIMINAL APPLICATION NO. 4755 OF 2025

Kamakshi Shivraj Ashture
VERSUS
The State Of Maharashtra And Others
.....
Mr. G. A. Gadhe, Advocate for Applicant.
Mr. M. A. Aher, APP for Respondent – State.
Mr. H. B. Nandagawale i/by Mr. V. G. Sakolkar, Advocate for Respondent No.3.
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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 28 OCTOBER, 2026

PC:

1. Heard the learned advocates appearing for the respective parties.

2. By this application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant is challenging FIR No.190/2020 dated 04.06.2020 registered with the Chakur Police Station, Tq. Chakur, Dist. Latur, at the behest of respondent No.3 for the offences punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code.

3. The applicant is not a relative of the husband of respondent No.3. She has been arraigned as an accused on the allegation that she was in

an illicit relationship with the husband of respondent No.3.

4. As per the report lodged by respondent No.3/ complainant, her marriage with Dinesh Chandrakant Mirche took place on 27.05.2013. It is alleged that she was subjected to cruelty by her husband and in-laws on account of a demand of Rs.50,00,000/- for purchasing a flat at Bangalore. It is further alleged that her husband introduced the applicant to her as his friend and was having an illicit relationship with the applicant, that he used to consume liquor and assaulted her on 11.03.2020, and that in the year 2017 her in-laws compelled her to undergo an abortion. As such, the aforesaid FIR came to be registered at the behest of respondent No.3 on 04.06.2020.

5. In pursuance of the aforesaid FIR, the investigation was set in motion and after completion of investigation, the charge-sheet was filed. The learned Judicial Magistrate, First Class, Chakur, by order dated 21.12.2024 took cognizance and issued summons to the accused, including the applicant, and the proceedings bearing R.C.C. No.50/2022 are now going on before the said Court.

6. The learned advocate for the applicant submitted that the applicant is a resident of Bangalore and is in no manner related to the

husband of respondent No.3 or his family. The allegations against her are vague and baseless, and none of the witnesses examined during the investigation has attributed any overt act to her. Hence, continuation of the prosecution would amount to an abuse of the process of law.

7. Per contra, the learned APP appearing for the respondent/ State as well as the learned advocate appearing for respondent No.3/ complainant strongly opposed the instant application. They submitted that sufficient material is available in the charge-sheet against the applicant and her role is a matter to be decided at the time of trial. Hence, they prayed for rejection of the instant application.

8. At this stage, it would be apposite to refer to some judgments of the Hon'ble Supreme Court. The Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal***, **1992 Supp (1) SCC 335**, laid down the categories of cases in which the High Court may exercise its inherent powers to quash criminal proceedings, including where the allegations, even if taken at their face value, do not prima facie constitute any offence against the accused. Further, in ***U. Suvetha v. State***, **(2009) 6 SCC 757** and in **Dechamma I. M. @ Dechamma Koushik v. State of Karnataka (Arising out of SLP (Crl.) No. 3421 of 2022) decided on 4 December 2024,** the Hon'ble Supreme Court held that a woman with

whom the husband is alleged to have an extra-marital relationship is not a ‘relative’ of the husband within the meaning of Section 498-A of the Indian Penal Code. In the case in hand, the allegations against the applicant, therefore, need to be examined in the light of the aforesaid principles laid down by the Hon’ble Supreme Court.

9. After going through the FIR in question as well as the statements recorded by the Investigating Officer, it is found that the FIR has been lodged as a result of matrimonial differences between respondent No.3 and her husband. The only allegation against the applicant is that she was in an illicit relationship with the husband. The applicant is neither related to the husband by blood nor by marriage, and therefore, she cannot be said to be a ‘relative’ of the husband so as to attract Section 498-A of the Indian Penal Code. The allegations of demand, assault and abortion are made against the husband and the in-laws, and no specific incident, date or overt act has been attributed to the applicant so as to attract Sections 323, 504 and 506 of the Indian Penal Code. Even if the allegations are taken at their face value, no offence is made out against the applicant.

10. In view of the aforesaid discussion, it is found that the allegations do not disclose the commission of any offence by the applicant.

Therefore, in order to prevent an abuse of process of the Court and to secure the ends of justice, the instant application deserves to be allowed and the criminal proceedings against the applicant deserve to be quashed and set aside. Hence, the following order:

ORDER

(a) The Criminal Application is allowed.

(b) FIR No.190/2020 dated 04.06.2020 registered with the Chakur Police Station, Tq. Chakur, Dist. Latur, at the behest of respondent No.3 and the further proceedings arising therefrom, including the order dated 21.12.2024 and R.C.C. No.50/2022 pending before the learned Judicial Magistrate, First Class, Chakur, are hereby quashed and set aside to the extent of the present applicant.

(SUSHIL M. GHODESWAR, J.)

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