



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

112 CRIMINAL APPLICATION NO. 147 OF 2024

1. Abbas Hussain Shaikh (Husband)
2. Akilabano w/o Yakub Shaikh (cousin Mother in law)
3. Tarabai w/o Hussain Sahikh, (Mother in Law)
4. Shaik Yakub Saikh Imam (cousin father in law)
5. Shaik Altaf Shaikh Hussain, (Brother in law)
6. Ashfak Hussain Shaikh, (Brother in law)
7. Nasarin w/o Shaikh Altaf, (Sister in law)
8. Firdos w/o Ashfak Shaikh, (Sister in law)
9. Saikh Sultan Shikh Yakub (cousin Brother in law)
10. Muskan Shaikh w/o Sultan Shaikh (cousin Sister in law)
11. Muskan w/o Sultan Shaikh, (cousin Sister in law)
12. Parvin w/o Rahim Choudhri, (Sister in law) ... APPLICANTS

VERSUS

1. The State Of Maharashtra
Through Police Inspector,
Sadar Bajar Police Station, Jalna, Tq. & Dist. Jalna.
2. Aysha w/o Abbas Shaikh, ... RESPONDENTS
(Wife) (Res.No.2 Ori. Complainant)

Mr. Pradip S. Jadhav h/f Mr. Y. D. Kale, Advocate for the Applicants
Mr. G. O. Wattamwar, APP for the Respondent/State

CORAM : RAJNISH R. VYAS, J.

DATE : 23rd MARCH, 2026

PER COURT :-

1. Office note shows that Respondent No.2 has refused to accept the service of notice. Hence, Respondent No.2 be treated as served.
2. At the outset learned Advocate for the Applicants submits that he

will not press an application for applicant No.1 and liberty be given to file discharge application before the Trial Court. In view of it, application for applicant No.1 is disposed of with liberty to file discharge application before the Trial Court.

3. This application is filed under Section 482 of the Code of Criminal Procedure, challenging the registration of First Information Report for commission of offence punishable under Sections 498-A, 504, 494 read with 34 of the Indian Penal Code, as well as consequential filing of final report so also order issuing process.

4. Heard Mr. Jadhav, learned Advocate for the applicants and learned APP for the respondent/State.

5. Though notices were issued to the informant, office note shows that respondent No.2 has refused to accept the notice.

6. Be that as it may, criminal law was set in motion on the basis of information supplied by one Aysha Abbas Shaikh to respondent No.1- Police Station, which resulted into registration of FIR No. 17/2020, dated 09.1.2020 for the commission of offence punishable under Sections 498-A, 504, 494 read with 34 of the Indian Penal Code.

7. In all, 12 accused persons were named in the First Information Report. Applicant No.2. is cousin Mother in law, applicant No.3 is Mother in Law, applicant No. 4 is cousin father in law, applicant No. 5 Brother in law, applicant No. 6 is Brother in law, applicant No. 7 is Sister in law, applicant No. 8 is Sister in law, applicant No. 9 is cousin Brother in law, applicant No. 10 cousin Sister in law, applicant No. 11 is cousin Sister in law and applicant No. 12 is Sister in law.

8. In the First Information Report it was alleged by the informant that on 16.10.2011 her marriage was performed with accused No.1-Abbas Hussain Shaikh and thereafter she started residing at Gavalipura, Chavani. She was blessed with two daughters and a son. It was alleged in the First Information Report that for initial six months, she was treated properly by the her in-laws and thereafter all the applicants starting demanding amount of Rs.10 lakhs for construction of house and on that count, they used to abuse and cause mental harassment to the applicants. It was case of the informant she disclosed abovesaid incident to her parents, who due to their poor financial condition, tried to convince the accused persons and also dropped the informant at her matrimonial place by giving certain amount. It was further alleged that for few days again the informant was treated properly but thereafter harassment continued. Ultimately on 24.12.2019, the informant

was not allowed to enter the house and her gold ornaments as well as money were taken. She also alleged that her husband had performed second marriage with one Yasmin.

9. In the first information report, it is alleged that the matter was referred for the Mediator, but the mediation could not become successful and consequently first information report was lodged. The investigation was thereafter carried out. During the course of investigation, statements of witnesses were recorded. The statement of father so also the brother of the applicant shows that they have stated about the incident which is narrated in the first information report.

10. It is in this backdrop learned counsel for the applicants submitted that allegations made in the first information report are not sufficient enough to attract ingredients of alleged offences. He submitted that the first information report is example of an abuse of process of law and therefore, all the family members, who were not even concerned, were named in the first information report. Thus, he prayed for quashment of the criminal prosecution.

11. Per contra, the learned APP submitted that the version advanced by the informant and other witnesses clearly shows that the informant was subjected to mental and physical harassment and amount of Rs.10 lakhs was

demanding from her for construction of house. He submitted that since, charge-sheet is already filed, recourse can be taken by the accused person by filing discharge application. He prayed for dismissal of the application.

12. With the help of respective counsels I have gone through the record of the case. It is not in dispute that marriage of the present informant took place with present applicant No.1 on 16.10.2010. The first information report shows that the informant has stated that all the accused persons had subjected her to physical and mental harassment and had demanded amount of Rs.10 lakhs. It is also submitted that on 24.12.2019 she was driven out of the house at that time, her gold ornaments and money were taken away by the accused persons.

13. At this stage, it is necessary to mention that the last incident had taken place on 24.12.2019 and first information report was registered on 09.01.2020. A perusal of the first information report so also the statements recorded during the course of investigation shows that only vague and omnibus statement are made against the accused persons, except husband, that the informant was subjected to the physical and mental harassment. The first information report and final report is bereft of date and time of the demand made. Prim facie I do not find the present applicants, except accused, have committed any offences for which they are chargesheeted. The learned

counsel for the applicants has rightly invited my attention to the judgment in case of *Kahkashan Kasuar alias Sonam Vs. State of Bihar*, AIR 2022 SC (Criminal) 515, more particular paragraph 15 which reads thus:

“15. Further in Preeti Gupta & Anr. Vs. State of Jharkhand & Anr. 6, it has also been observed:-

“32. It is a matter of common experience that most of these complaints under section 498A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under section 498A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing

with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.”

14. A perusal of the aforesaid judgment reveals that the Court must take pragmatic realities into consideration. Relatives of the husband cannot be roped in on the basis of omnibus allegation unless specific instances of their involvement in the crime are made out. So far as contention of learned APP that applicants can avail remedy of discharge is concerned, suffice it to say that alternate remedy is no bar to exercise inherent powers, in peculiar facts of the case. As already discussed, neither the first information report nor the final report shows that there are specific allegations against the present applicants except accused. In that view of the matter, I am inclined to pass the following order.

ORDER

(i) Application of husband-Abbas Hussain Shaikh stands disposed as

withdrawn with liberty to file discharge application.

(ii) First Information Report No. 17/2020, dated 09.1.2020 registered with Sadar Bazar Police Station, Jalna for commission of offence punishable under Sections 118(1), 115(2), 351(2), 352, 324(4) of the Bharatiya Nyaya Sanhita, 2023 and consequent proceeding thereupon including order taking cognizance and R.C.C. No. 163/2020 pending before the Chief Judicial Magistrate, Jalna is set aside qua the applicant Nos.2 to 12.

(iii) Application is disposed of accordingly.

(RAJNISH R. VYAS)
JUDGE

ssp