



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 313 OF 2024

1. Abedabi Shaikh Ali, Age – 64 years,
Occu – Nil, R/o. House No. 12/2/543/2,
Hussen Colony, Nyay Nagar, Garkheda
Parisar, Aurangabad, Tal. & Dist. - Aurangabad
(Mother-in-law of the Complainant)
2. Majid Ali Shaikh, Age – 34 years,
Occu – Service, R/o. As above
(Brother-in-law of the Complainant)
3. Tabassum Shaikh Majid,
Age – 28 years, Occu. - Household,
R/o. As above
(Wife of Brother-in-law of the Complainant)
4. Sumaya Shafiq Shaikh,
Age – 25 years, Occu. - Household,
R/o. - Anand Nagar, Aurangabad
Tal. & Dist. - Aurangabad
(Sister-in-law of the Complainant)
5. Shaikh Shafiq Shaikh Ajij,
Age – 38 years, Occu. - Business,
R/o As above
(Husband of Sister-in-law of the Complainant)

.. Applicants

Versus

1. The State of Maharashtra through the
Police Station Officer, Khultabad,
Police Station Khultabad,
Tal. - Khultabad, Dist. Aurangabad
2. Rubina Sikandar Shaikh, Age – 21 years,
Occu – Household, R/o. @ Shakir Yusuf Patel,
Takali Rajaray, Tal – Khultabad,
Dist. - Aurangabad

.. Respondents

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Advocate for applicants : Mr. Vishnu Y. Patil
APP for the respondent – State : Mr. V.S. Badakh
Advocate for respondent no. 2 : Mr. S.P. Sayed
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CORAM : RAJNISH R. VYAS, J.

DATE : 25 MARCH 2026

ORAL ORDER :

Heard.

2. Inherent powers of this Court are invoked by the relatives of the husband, taking exception to the FIR no. 0552 of 2023 dated 28.12.2023 registered with Police Station Khultabad, Tal – Khultabad, District – Aurangabad for the offences punishable under sections 498-A, 323, 504, 506 r/w. 34 of the Indian Penal Code, 1860 and consequent filing of the final report registration of the Regular Criminal Case No. 44 of 2024 pending in the court of learned Judicial Magistrate First Class, Khultabad, Dist.- Aurangabad and the order taking cognizance.

3. The case of the present applicants is that marriage of the non-applicant no. 2 was solemnized with son of the applicant no.1 on 14.04.2019 and the parties are residing separately since the year 2021. It is alleged in the FIR that after marriage, the non-applicant no. 2

started residing with the husband and the present applicants in the house situated at Pundliknagar, Aurangabad. Initially, non-applicant no. 2 was treated properly for one year but thereafter all the applicants used to give humiliating treatment to the non-applicant no. 2. She was harassed for trivial reasons and was abused on the count that non-applicant no.2 does not wash the clothes properly and clean the house. Non-applicant no. 2 was also beaten by her husband – Shaikh Sikandar and her harassment increased as the girl was born to non-applicant no. 2.

4. It was alleged in the FIR that due to the harassment meted out, she consumed poison on 19.07.2021 and was admitted to the Care Well Hospital, Chhatrapati Sambhajinagar. After a month of the aforesaid incident, all the applicants requested the parents of the non-applicant no. 2 to send her for cohabitation and, thereafter, for 8-10 days, she was treated properly. It was alleged in the FIR that all the applicants again started harassing the non-applicant no. 2 and used to demand an amount of Rs.1,00,000/- for purchasing the jeep vehicle. As the harassment continued, in spite of understanding being given by the parents of the non-applicant no. 2, on 06.12.2023, she lodged the complaint with Women's Grievance Redressal Committee, Chhatrapati Sambhajinagar (Rural) where steps for settlement were taken but unfortunately, it did not yield any fruits.

5. It is in this background that the FIR as stated above was lodged. After completion of investigation, final report was filed and statements of not only relatives of the non-applicant no. 2 including brother of applicant no. 2 was also recorded.

6. Learned counsel for the applicants submitted that criminal prosecution was set in motion without there being any instances of mental and physical harassment. He submits that allegations made are vague and cannot prima facie constitute an offence under section 498-A, 323, 504, 506 r/w. 34 of the Indian Penal Code, 1860. He, therefore, submits that proceeding against applicants be quashed.

7. Per contra, learned APP Mr. V.S. Badakh submits that final report would reveal that there is enough material to connect the present applicants to the crime. He also relied upon statement of brother of the applicant no. 1 who has stated that the non-applicant no.2 has consumed poison on one occasion and it is due to his interference, the settlement was arrived. Statement of Rasul Shaikh, brother of applicant no. 1 was also relied on by Mr. V.S. Badakh, to contend that it clearly shows that prima facie, the material is available against the present applicants.

8. With the help of respective counsels, I have gone through the record of the case. Inherent powers of this Court under section 482 of the Code of Criminal Procedure are invoked. ***The Hon'ble Apex Court in State of Haryana and others V. Ch. Bhajan Lal and others*** reported in **1992 SCC Supl. (1) 335** has laid down parameters for quashment of First Information Report in paragraph no. 102, which are reproduced below;

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused with a view to spite him due to private and personal grudge."

9. In this background, if the FIR and the material collected during the course of investigation if perused, it would reveal that after marriage in the month of April 2019, non-applicant no. 2 went to reside with all the applicants where initailly, she was treated properly but thereafter she was subjected to harassment on the ground that non-applicant no. 2 does not wash the utensils and clean the house properly. It is also alleged that the husband of the non-applicant no. 2 has beaten her and due to continuous harassment, she had consumed poison. The report further shows that demand of an amount of Rs.1,00,000/- was also made for purchase of the jeep vehicle.

10. So far as contention of Mr. Badakh, learned APP, brother of the applicant no. 2 has clearly stated that the non-applicant no. 2 was subjected to harassment, suffice it to say that the statement is hearsay and is also not specific and, therefore, same cannot be taken into consideration.

11. At this stage, it is necessary to note that the allegations made against all the applicants are totally vague and omnibus. No specific date or period is prescribed. On the basis of vague allegations, it would not be proper to continue the criminal prosecution against the present applicants. It seems that the FIR was lodged on 28.12.2023. It is necessary to mention that the husband is not a party in the present proceeding and it is against whom specific allegations are made. Nature of allegations would clearly reveal that there is no enough material for prosecution to proceed against the present applicants, and thus continuation of prosecution against the applicants would not lie in the interest of justice.

12. In that view of the matter, following order is passed :

ORDER

I) Criminal Application is allowed.

II) FIR no. 0552 of 2023 dated 28.12.2023 registered with Police Station Khultabad, Tal – Khultabad, District – Aurangabad for the offences punishable under sections 498-A, 323, 504, 506 r/w. 34 of the Indian Penal Code, 1860 and consequent filing of the final report registration of the Regular Criminal Case No. 44 of 2024 pending in the Court of learned Judicial Magistrate First Classs, Khultabad, Dist.- Aurangabad and the order taking cognizance / issue process dated 06.03.2024 are hereby quashed and set aside.

[RAJNISH R. VYAS]
JUDGE

arp/