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32criapln4512.24

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 4512 OF 2024

1. Shaikh Mohd. Ayyub Raj Mohammed [Father-in-law]
Age-82 years, Occu-Nil,
2. Shamim Sultana Shaikh Mohammed Ayyub Shaikh
[Mother-in-law]
Age-74 years, Occu-Household,

Both R/o. Room No. 376, Beharam Nagar,
Near Sunni Hari Masjid, Bandra East
Mumbai-400 051
3. Nasima Sultana Mohd. Majid @
Nasim Sultana Mohammad Ayub Shaikh, [Sister-in-law]
Age-51 years, Occu-Household,
R/o. Plot NO. 72, Room No. 75,
New Collector Compound,
Gate No. 8, Malwani Colony,
Malad West, Mumbai-400 095
4. Mohd. Majid @ Majid Abeed Shaikh [Husband of sister-in-law]
Age-52 years, Occu-Labour,
R/o. Plot No. 72, Room No. 75,
New Collector Compound
Gate No. 8, Malwani Colony,
Malad West, Mumbai -400 095
5. Mohd. Nadeep Mohd. Ayyub Shaikh [Brother-in-law]
Age-45 years, Occu-Labour,
R/o. Room NO. 376, Beharam Nagar,
Near Sunni Hari Masjid, Bandra East,
Mumbai – 400 051
6. Shagufta Mohd. Nadeem @ [Wife of Brother-in-law]
Shagufta Farheen Mohd. Nadeem Shaikh,
Age-41 years, Occu- Household,
R/o. Room No.376, Behram Nagar,
Near Sunni Hari Masjid, Bandra East
Mumbai- 400 051

7. Mohd. Lateef @ Lafeef Mohd. Ayub Shaikh [brother-in-law]
Age-51 years, Occu-Labour
R/o. New Helping Society, Behram Nagar,
Zopadpatti, Bandra East
Mumbai -400 051
8. Mohd. Aref @ Shaikh Mohd [Brother-in-law]
Arif Shaikh Ayub
Age-58 years, Occu-Labour,
R/o. Plot No.72, Room NO. 75,
New Collector Compound,
Gate No. 8, Malwani Colony,
Malad West, Mumbai 400 095
9. Mohd. Asef @ Mohd. Asif Shaikh [Brother-in-law]
Age-55 years, Occu- Labour,
R/o. Room NO. 376, Baharam Nagar,
Near Sunni Hari Masjid, Bandra East
Mumabai-400 051

...APPLICANTS

VERSUS

1. The State of Maharashtra
Through Police Station Officer,
City Chowk Police Station, Aurangabad
Tq. & Dist. Aurangabad
2. Tahmina Mohd. Waseem Shaikh,
Age-30 years, Occu- Household,
R/o. Rohila Galli C/o. Biyabani,
City Chowk, Aurangabad
Tq. & Dist. Aurangabd

...RESPONDENTS

Mr. A. R. Syed, Advocate for the applicants
Mr. V. V. Jahagirdar, APP for the respondents/State

CORAM : RAJNISH R. VYAS, J.

DATE : 06th APRIL, 2026

PER COURT :

1. Heard the learned Advocates for the parties.
2. Since none appeared for the non-applicant No.2 on 27-03-2026 in order to give one more chance, the matter was directed to be listed today. Today, also none appeared for the non-applicant No.2.
3. Learned Advocate for the applicants challenging the registration of First Information Report, consequent filing of the final report and order taking cognizance against the present applicants who are accused No.2 to 10 has argued that the allegations against the present applicants are totally vague and therefore, they cannot be prosecuted for commission of offences punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code. He further submitted that perusal of the record would reveal that dispute is between the husband and wife in which other family members are unnecessarily roped into. He therefore, submitted that continuation of the prosecution would not be in the interest of justice and prayed for allowing the application.
4. Per contra, learned APP vehemently opposed the application contending that the material brought on record in the form of statement of mother of non-applicant no.2 clearly shows that version advanced by the non-applicant No.2 stands corroborated. He,

thus, submitted that whether the applicants were involved in the commission of crime or not can be tested during the course of the trial and considering the scope of present application, mini trial may not be conducted at this stage.

5. With the help of respective counsels I have gone through the record of the case. The First Information Report No.107/2021 23-03-2021 dated registered with the City Chowk Police Station, Aurangabad city for commission of offences punishable under Section 498-A, 323, 504 and Section 34 of the IPC at the instance of non-applicant No.2 in all against ten persons. The present applicants are accused Nos. 2 to 10. Applicant No.1-Shaikh Mohd. Ayyub Raj Mohammed [Father-in-law], applicant No.2-Shamim Sultana Shaikh Mohammed Ayyub Shaikh [Mother-in-law], applicant No.3-Nasima Sultana Mohd. Majid @ Nasim Sultana Mohammad Ayub Shaikh, [Sister-in-law], applicant No.4-Mohd. Majid @ Majid Abeer Shaikh [Husband of sister-in-law], applicant No.5-Mohd. Nadeep Mohd. Ayyub Shaikh [Brother-in-law], applicant No.6-Shagufta Mohd. Nadeem @ Shagufta Farheen Mohd. Nadeem Shaikh [Wife of Brother-in-law], applicant No.7- Mohd. Lateef @ Lateef Mohd. Ayub Shaikh [brother-in-law], applicant No.8-Mohd. Aref @ Shaikh Mohd Arif Shaikh Ayub [Brother-in-law], applicant No.9- Mohd. Asef @ Mohd. Asif Shaikh [Brother-in-law] of non-applicant/informant.

6. The husband has not approached this court. It was alleged in the FIR that her marriage was solemnized as per Muslim rites and ceremony on 02-06-2013 with Wasim which was arranged by her maternal aunt. At the time of marriage relatives including present applicants were also present. The non-applicant No.2 was treated properly for six months after the marriage. At that time the husband was working with as a Web Designer with the company situated at Andheri-Jogeshwari. Due to Covid lockdown the husband stayed at home and when non-applicant No.2 demanded amount for household articles, he told her that he is not in a position to bring any amount due to loss of job. On that count she was abused. When the non-applicant No.2 tried to convince the husband, the present applicants abused and assaulted her, so also asked non-applicant No.2 to bring an amount of Rs.2 lakhs from her parents' place, else leave the matrimonial place. For this reason she was subjected to mental and physical harassment.

7. It is necessary to mention here that in the FIR non-applicant No.2 had also narrated earlier incident in which it was alleged that on 19-05-2015 in-laws and husband demanded an amount of Rs.2 lakhs and on that count had beaten and threatened her. She was also asked not to reside with them unless and until the amount of Rs.2 lakhs is brought. It was alleged that in the year 2015,

she was then dropped at her parents' place. On 26-12-2015 non-applicant No.2 was blessed with a baby boy but neither husband nor in-laws visited the non-applicant No.2. Due to which FIR bearing No.425/2016 for commission of offences punishable under Sections 498, 323, 504 read with Section 34 of the IPC was lodged on 07-10-2015 was registered. After the investigation the charge-sheet was filed and trial was proceeded.

8. When the matter was listed for recording of evidence of mother-in-law assured the mother of non-applicant No.2 that they would treat the non-applicant No.2 properly and requested to depose in their favour. The mother of non-applicant No.2 hence supported the version of in-laws and compromise took place. Ultimately on 21-09-2018 in-laws were acquitted from the aforesaid criminal case and informant was taken to matrimonial place at Malad, where she was treated properly for one year. But again she was abused and assaulted as she demanded the amount for household expenses from the husband.

9. It was alleged in the FIR that on 18-02-2019 and 13-05-2020 non-applicant No.2 lodged the complaint with the police station Malwani which resulted into registration of non-cognizable report against the husband. She then contended that in spite of their being compromise, she was not treated properly and therefore, she lodged

the First Information Report as stated above. The lodging of the FIR triggered the investigation and completion of which resulted into filing of final report and further passing order of taking cognizance.

10. At this stage, it is necessary to mention here that in the earlier FIR lodged by the non-applicant No.2 all the applicants were accused persons therein. The in-laws of the non-applicant No.2 were acquitted as compromise had arrived at. Said acquittal had taken place in the year 2018, whereas the present FIR was lodged in the year 2021. So far as allegations against the present applicants are concerned, it is alleged that all the applicants had demanded amount of Rs.2 lakhs and subjected the non-applicant No.2 to physical and mental harassment. Except that no specific case is made out against the present applicants. Omnibus and general allegations made against the present applicants would not be enough to permit the prosecution to proceed against them. Since the FIR is bereft of any details regarding time, date and place, continuation of the prosecution would not be in the interest of justice. Other statements which are part of the charge-sheet more particularly statement of mother also speaks on the same line of the non-applicant No.2.

11. Considering the fact that allegations made against the present applicants are general and omnibus, it can not be said that prima facie case is made out against them. The fact cannot be

ignored that in the matrimonial proceedings there is tendency to implicate the relatives of the husband.

12. So far as contention of the learned APP that all these issues can be resolved by the trial court, suffice it to say that powers under Section 482 of the Cr. P. C. can be exercised to do complete the justice.

13. As already stated as the general and omnibus statements are foundation of the case against the present applicants, continuation of the prosecution would not be in the interest of justice. Hence, the following order is passed:

ORDER

a] The application is allowed in terms of prayer clauses-[B][C] & [C-1] to the extent of present applicant Nos.1 to 9.

b] The application is disposed off.

[RAJNISH R. VYAS, J.]