

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO. 1544 OF 2015

VINAYAK S/O SITARAM RATHOD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Katneshwarkar P.R.
APP for Respondents/ State : Mrs.P.J.Bharad.
Advocate for first informant: Mr.K.B.Jadhav.

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CORAM : **V. M. DESHPANDE, J.**
DATE : 08th April, 2015.

Per Court:

1 By the present application, the Applicants who are father in-law, mother in-law, brother in-law and grand mother in-law of the first informant are before this Court since they are apprehending their arrest in connection with Crime No.21 of 2015, registered at Mantha Police Station, District Jalna, for the offences punishable under Sections 307, 498-A read with Section 34 of the Indian Penal Code.

2 I have heard Mr.P.R. Katneshwarkar, learned counsel for the Applicants, Mrs. Pratibha Bharad, learned APP and Mr.K.B.Jadhav, learned counsel for the first informant, in detail.

3 It is the submission that the learned counsel for the Applicants that the alleged incident is dated 21st February, 2015, whereas the first information report is registered on 3rd March, 2015. Thus, there is an

unexplained delay that is sufficient to give supplement strength to his submission that the present Applicants are falsely implicated in the crime.

4 True it is that the alleged incident is dated 21st February, 2015 and the first information report is lodged on 3rd March, 2015. However, the learned APP who made available the investigation papers clearly shows that on 21st February, 2015, when a request was made to the Medical Officer by the Police Authority for recording the statement of Savita, that time, the Medical Officer has specifically endorsed that the patient Savita is not in a position to give her statement. Therefore, immediately the statement of Savita was not recorded.

5 Subsequently, when Savita regain consciousness, her statement was recorded and it was sent to the Police Station Mantha. The Police Station Officer found that the statement of first informant was disclosing of commission of cognizable offence, therefore, offence was registered on 3rd March, 2015. In that view of the matter, the statement of the learned counsel for the Applicants in respect of delay atleast at this stage, holds no water. However, it will be open for the Applicants to raise the said issue at the time of trial.

6 The first information report is clear in so far as the role attributed

to each of the Applicants. Specific accusations are made against Applicant Nos.1 and 3 that they helped the husband – Anil, whose application for anticipatory bail already withdrawn for administering poison by holding legs and hands of first informant. Further, the Panchanama clearly shows that at that time there was a scuffle since the Investigating Officer has found the broken pieces of bangles on the spot.

In so far as the role of Applicant No.2 – Kamlabai Vinayak Rathod, mother in-law of the first informant and Applicant No.5 – Limbdabai Sitaram Rathod, who is grand mother in-law of the first informant, is that they only pull hairs of first informant. Thus, serious accusations are not made against them. Further, both are ladies and therefore, in the given set of facts, leniency can be shown for them. Further, the accusation of the first informant as appearing in the first information report is also supported by the independent witnesses, who have seen immediate presence of Applicant Nos.1 and 3 and also the husband of the first informant. Their statements clearly shows that at the relevant time said Savita was unconscious.

7 Hence, I pass the following order:

- I. Criminal Application No.1544 of 2015 is partly allowed.

- II. The application filed on behalf of Applicant No.1 – Vinayak Sitaram Rathod, Applicant No.3 – Sunil Vinayak Rathod, is hereby rejected.
- III. The application filed on behalf of Applicant No.2 – Kamlabai Vinayak Rathod and Applicant No.5 – Limbdabai Sitaram Rathod is hereby allowed.
- IV. In the event of arrest of Applicant No.2 – Kamlabai Vinayak Rathod and Applicant No.5 – Limbdabai Sitaram Rathod, they be released on anticipatory bail on they executing P.R. Bond of Rs.5,000/- each with one solvent surety of the like amount, in connection with Crime No.21 of 2015, registered at Mantha Police Station, District Jalna, for the offences punishable under Sections 307, 498-A read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.
- V. With this observation, the application is partly allowed.

[V. M. DESHPANDE, J.]