

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2320 OF 2014

1. Mahesh s/o. Rameh Gawale,
Age 26 years, Occu. Labourer,
2. Ramesh s/o. Bhagaji Gawale,
Age 60 years, Occu. Labourer,
3. Kamalbai w/o. Ramesh Gawale,
Age 55 years, Occu. Service,

All R/o. N-2, M-2, 26/11, Ramnagar,
Mukundwadi, Aurangabad.
4. Ranjita Milind Pawar,
Age 28 years, Occu. Service,
as a Nurse in Zilla Parishad,
Health Center, Hatmali,
Tq. and Dist. Aurangabad.
5. Milind s/o. Barku Pawar,
Age 35 years, Occu. Service,
R/o. Village Hatmali,
Tq. and Dist. Aurangabad.

**....Petitioners.
(Ori. Accused).**

Versus

1. The State of Maharashtra
2. Sandhya Mahesh Gawale,
Age 23 years, Occu. Household,
R/o. C/o. Sangeeta Bhausahab
Dabhade, S.T. Colony, Laxmi
Chowk, Behind Pahade Apartment,
CIDCO, Aurangabad.
And also given in F.I.R. Songiri,
Tq. Jafrabad, Dist. Jalna.
Mob. No. 9049133239.
3. Mahila Suraksha Special Branch,

Through Incharge Officer,
Police Station Kadim Jalna,
Jalna, Tq. & Dist. Jalna.

....Respondents.

Mr. M.D. Joshi, Advocate for applicants.

Mr. V.D. Godbharle, APP for State/respondent No. 1.

Mr. R.B. Deshpande, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE &
SMT. I.K. JAIN, JJ.**

DATED : 15th April, 2015.

JUDGMENT :

1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2) The proceeding is filed for quashing of the chargesheet which is bearing RCC No. 43/2014 and which is pending in the Court of Judicial Magistrate, First Class, Jafrabad for the offences punishable under sections 498-A, 323, 504 etc. of Indian Penal Code and sections 3 and 4 of Dowry Prohibition Act.

3) The crime was registered on the basis of report given by Smt. Sandhya Gawale, the wife of present applicant No. 1. Applicant No. 1 died during the pendency of the proceeding and so, there is no need to consider the prayer made in respect of

applicant No. 1 - Mahesh Ramesh Gawale.

4) It is the case of complainant that she was given in marriage to Mahesh on 18.4.2010. It is her case that she cohabited with Mahesh in the house where the parents of Mahesh were living. It is her case that she was treated well only for initial 8-10 months of the marriage, but after that the husband and his relatives like his parents, his sister and husband of sister started harassing her and they started asking her to bring Rs. 1.5 lakh from her parents as Ape-rickshaw was to be purchased for her husband. It is her case that they used to give abuses to her and they used to give beating to her. It is her case that her husband also started expressing suspicion about her character. It is her case that her parents could not meet such demand as they are poor. One son was born out of this wedlock. But, even after the birth of son, illtreatment was given to her.

5) It is her case that one year prior to the date of report she was driven out of the matrimonial house as the demand was not meet with. It is her case that on 16.1.2014 she was called to Women Redressal Cell Jalna and her husband and other relatives of her husband were also called. It is contended that nobody turned up from the side of husband. Then she gave report and

crime came to be registered on 17.2.2014.

6) The learned counsel for applicant Nos. 4 and 5, sister of the husband of complainant and the husband of the said sister were living separate and the allegations against them are very vague. It was submitted that they married long back and they had no reason to come to the matrimonial house of the complainant to ask the complainant to bring such money from her parents. There is force in this contention. Allegations as against them are very vague. It can be said that the allegations were mainly against the husband and his parents as they wanted money for purchasing Ape-rickshaw. Nothing can be achieved, if the prosecution is allowed to be continued as against applicant Nos. 4 and 5. So, this Court holds that proceeding filed against applicant No. 4 and 5 in the Court of J.M.F.C., Jafrabad needs to be quashed by allowing the present proceeding.

7) The learned counsel for the applicants placed reliance on the case reported as **(2004) 8 Supreme Court Cases 100 [Y. Abraham Ajith and Ors. Vs. Inspector of Police, Chennai and Anr.]**. He submitted that even if the contents of the F.I.R. are read as they are, it cannot be said that the cause of action took place at Jafrabad, District Jalna. He

submitted that the complainant was cohabiting with the husband in Aurangabad and so, J.M.F.C., Aurangabad could not have taken cognizance and the J.M.F.C., Jafrabad has no power to try the case. In that case, the Supreme Court considered the relevant provisions and held that when there was no cause of action for initiation of proceeding, which had arisen within local jurisdiction, the concerned Magistrate cannot have jurisdiction. It was also case for the offence punishable under section 498-A of I.P.C. and sections 3 and 4 of Dowry Prohibition Act. In view of these circumstances and as it is a police case, this Court holds that the things can be corrected by transferring the case which will be remaining as against applicant Nos. 2 and 3 to the Court of J.M.F.C., Aurangabad.

8) In the result, the application is allowed in respect of applicant Nos. 4 and 5 only. Criminal Case bearing RCC No. 43/2014 pending in the Court of J.M.F.C., Jafrabad is quashed and set aside to their extent only.

9) Application of applicant Nos. 2 and 3 is rejected. The application in respect of applicant No. 1 is disposed of as abated.

10) RCC No. 43/2014 present pending in the Court of

J.M.F.C., Jafrabad is withdrawn from that Court and is transferred to the Court of J.M.F.C., Aurangabad. The record is to be sent to the Court of C.J.M. Aurangabad, who is to assign the case to any J.M.F.C., Aurangabad. The accused/applicant Nos. 2 and 3 are to appear in the case in the Court of J.M.F.C., Aurangabad on 15.6.2015.

Rule is made absolute in aforesaid terms.

[SMT. I.K. JAIN, J.]

[T.V. NALAWADE, J.]

ssc/