

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4591 OF 2014

1. Nilkanth s/o Tukaram Dake
Age 54 years, Occupation: Service
(Dy. Commissioner, Sales Tax)
R/o Sales Tax Office, Pathardi Phata,
Nashik, Taluka & District Nashik

2. Latabai w/o Nilkanth Dake
Age 40, Occupation: Hosue hold
R/o Adinath Row House No. 9,
Garkheda Parisar, Aurangabad

3. Neha d/o Nilkanth Dake
Age 22 years, Occupation: Education
R/o Adinath Row House No. 9,
Garkheda Parisar, Aurangabad
At present BMCC College, Pune

... APPLICANTS

VERSUS

1) The State of Maharashtra
Through Incharge of
Kadim Jalna Police Station, Jalna
Tq. & District Jalna

2) Sow Sheetal w/o Krushna Dake
Age 27 years, Occupation: Household
R/oC/o Babasaheb Vitthal Khandebharad
Malipura, Mali Galli, Grand Chaman,
Old Jalna, Tq. & District: Jalna

... RESPONDENTS

Mr. N. B. Narwade, Advocate for the Applicants
Mr. V. D. Godbharale, APP for the respondent-State.
Mr. S. S. Panale, Advocate for respondent No.2

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

DATE : 9th April, 2015

JUDGMENT (Per Smt. I. K. Jain, J.)

Rule. Rule is made returnable forthwith by consent of the parties.
Criminal Application is heard finally.

2. Learned A.P.P. is also heard.

3. The application is under Section 482 of the Code of Criminal Procedure for quashing the proceedings in Regular Criminal Case No.477/2014 pending before the learned Chief Judicial Magistrate, Jalna, arising out of Crime No. 132/2014 registered with Kadim Jalna Police Station on the report of respondent No.2- Sheetal lodged on 01.05.2014 for the offences punishable under Sections 498-A, 323, 504, 506, 420 read with 34 of the Indian Penal Code.

4. We have heard the parties. Perused police papers.

5. It can be seen from F.I.R. that respondent No.2 was married to Krushna Dagdu Dake on 11.08.2012 as per Hindu Customary Rites. In the marriage, father of respondent No.2 had given 15 tolas gold, house articles and incurred expenditure of around Rs.5 lacs.

6. It is the case of complainant that after marriage, for three months, she was treated properly. Thereafter her husband, step in-laws and step sister in-law started illtreating her on trivial issues. She was mentally and physically harassed and kept without food. Applicant No. 2 Latabai used to torture her on the ground that she was of blackish complexion and not

a suitable match to Krushna. It is alleged that Latabai and husband of complainant Krushna had extra marital relations. Once complainant had seen the duo enjoying physical relations. She tried to pacify her husband. He did not pay heed to it. On the contrary, he instigated others in family to torture her more. They also demanded Rs.5 lacs for purchase of agricultural land and four wheeler Tavera. Sheetal disclosed the same to her parents on phone. Her father and mother then visited her house at Aurangabad. That time her in-laws and others abused and had a scuffle with them. They removed her father and mother out of the house.

7. On 08.01.2013, complainant, along-with her parents, went to the Women Grievances Redressal Forum at Jalna. She received a Notice from Nevasa Court in a petition filed by her husband for divorce. On 17.06.2013, she went to the Court at Nevasa. During pendency of the case at Nevasa, complainant was taken to her matrimonial house and resumed company of her husband. On 27.06.2013, complainant and her husband had given an undertaking to Women Grievances Redressal Forum that they are ready to reunite.

8. On 02.07.2013, husband of complainant informed her that he had to go to Nevasa for withdrawal of case. In the evening he told her that he had withdrawn the case. Surprisingly, on 08.03.2014, she received a notice from Nevasa Court to appear on 26.03.2014. She was mentally disturbed. Before that, on 28.02.2014, she had been to Jalna for enquiry in respect of her further studies. When she received Court notice, she was at Jalna

with her parents. Being mentally disturbed in view of the notice received from Court, she did not return to her matrimonial place. She then filed report with Kadim Jalna Police Station as above.

9. On going through the FIR and papers of investigation, it is apparent that there are specific allegations of illtreatment and cruelty at the hands of applicant No.2 Latabai. From the address given in application, it can be seen that she was residing with the complainant and her husband at the same address. Complainant has given instances of harassment in FIR. In view of the material collected during investigation against her, we are not inclined to exercise discretion in respect to applicant No.2 Latabai.

10. So far as applicant No. 1 Nilkanth Tukaram Dake is concerned, he is serving as Deputy Commissioner, Sales Tax at Nashik. Applicant No.3 Neha, daughter of applicant Nos. 1 and 2 is prosecuting her studies at Pune. No specific role is attributed to applicant Nos. 1 and No.3 in FIR. On its face, FIR and statements of witnesses do not constitute any offence against applicant Nos. 1 and 3. To prevent the abuse of process of law, we find that discretion needs to be exercised to the extent of applicant Nos.1 and 3.

11. In the result, Criminal Application No.4591 of 2014 is partly allowed.

12. Proceedings in Regular Criminal Case No.477/2014 pending before the learned Chief Judicial Magistrate, Jalna, arising out of Crime No. 132/2014 registered with Kadim Jalna Police Station on the report of

respondent No.2 Sheetal lodged on 01.05.2014 for the offences punishable under Sections 498-A, 323, 504, 506, 420 read with 34 of the Indian Penal Code are hereby quashed and set aside to the extent of Applicant Nos. 1 and 3.

13. Criminal application of Applicant No.2 Latabai stands dismissed.

14. Rule is made partly absolute in aforesaid terms.

(SMT. I. K. JAIN, J.)

(T. V. NALAWADE, J.)

JPC