

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5068 OF 2014

1. Mohd. Osman s/o Mohd. Ismail
R/o Parpeth, Near Shafina Masjid
Malkapur, Taluka Malkapur Dist. Buldhana
2. Mohd. Rafiq s/o Mohd. Ismail
R/o as above
3. Mohd. Shafiq s/o Mohd. Ismail
R/o as above
4. Firozabai Ziaullahkhan
R/o as above
5. Jamilabi Sayyed Jalal
R/o Indira Nagar, Buldhana
6. Bilqishbi Sayyed Akbar
R/o Dagdalipura, Shegaon
District Buldhana
7. Nasrinbi Shaik Anjum
R/o Qazi Plot, Bhusawal
District Jalgaon
8. Saba Khatunbi Mohd. Ismail
Parpeth, Near Shafina Masjid
Malkapur, Taluka Malkapur Dist. Buldhana

... APPLICANTS

VERSUS

- 1) Shabanabi w/o Mohd. Osman
R/o Mehrun, Near Grampanchayat Office,
Jalgaon
- 2) The State of Maharashtra
(Copy served on Public Prosecutor, High
Court Bombay, Bench at Aurangabad)

... RESPONDENTS

Mr. Hemantkumar F. Pawar Advocate for applicants
Mr. M. M. Bhokariker, Advocate for respondent No.1
Mr. K. M. Suryawanshi, APP for respondent No. 2-State

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

DATE : 30th March, 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 APP is also heard.

3. The application is filed under Section 482 of the Code of Criminal Procedure for quashing the proceedings in Regular Criminal Case No.205/2012 pending before the Chief Judicial Magistrate, Jalgaon arising out of complaint /FIR lodged by respondent No.1- Shabanabi on 21.12.2011 with MIDC Police Station, Jalgaon for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

4. Learned counsel for applicants submits on instructions that he wants to withdraw the application in respect of applicants 1, 2, 3 and 8. Application being withdrawn is to be disposed of to that extent.

5. Criminal Application is now in narrow compass. We have heard the parties in respect to applicants 4 to 7.

6. It can be seen from F.I.R. that original complainant- Shabanabi was married with Mohd. Osman on 25.12.2005. For 2/3 years after marriage she was treated well. Thereafter her husband asked her to bring Rs.1 lac from her parents for construction business and accordingly her maternal uncle had given Rs. 1 lakh. Again her husband demanded Rs.3 lacs. That time she refused to ask her parents/maternal uncle for Rs. 3 lacs. On refusal her husband, in-laws and other relatives of husband started illtreating her. She was tortured and abused mentally and physically. Sister in-laws who were visiting time and again were also instigating her husband for illtreatment and ultimately she was driven out of her matrimonial house. Her parents were threatened that she be sent back only on fulfilling demand of Rs. 3 lacs, else she would be burnt alive.

7. So far as applicants 4 to 7 are concerned, they are married sisters of husband of complainant-Shabanabi and they are residing separately. It can be seen from the complaint that vague allegations are made against them. On its face, complaint does not constitute any offence against applicants 4 to 7. No specific role is attributed to each of them. Petitioners 5 to 7 are residing separately and not in the same house. Nothing can be achieved, if charge sheet is filed against applicants 4 to 7. To prevent abuse of process of law, we find that discretion needs to be exercised in respect of applicants 4 to 7.

8. In this view of the matter, Criminal Application No. 5068 of 2014 is partly allowed to the extent of applicant Nos. 4) Firozabi Ziaullahkhan, 5)

Jamilabi Sayyed Jalal, 6) Bilqisbi Sayyed Akbar, and 7) Nasrinbi Shaikh Anjum.

9. Proceedings in Regular Criminal Case No.205/2012 pending before the Chief Judicial Magistrate, Jalgaon for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code is hereby quashed and set aside to the extent of applicants 4 to 7.

10. Being withdrawn, criminal application in respect to applicant `Nos. 1, 2, 3 and 8 stands disposed of.

11. Rule is made partly absolute in the aforesaid terms.

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

(T. V. NALAWADE, J.)

JPC