

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5909 OF 2013

1. Arun s/o Revannath Funde
Age 32 years, Occupation: Agriculture
2. Revannath s/o Maruti Funde
Age 68 years, Occupation: Agriculture
3. Saraswati w/o Revannath Funde
Age 65 years, Occupation: Household
4. Raju s/o Sadashiv Funde
Age 33 years, Occupation: Agriculture
5. Minakshi w/o Raju Funde
Age 30 years, Occupation: Household
6. Dinkar s/o Namdeo Funde,
Age 53 years, Occupation: Agriculture
7. Janardhan s/o Uttam Chaudhar
Age 44 years, Occupation: Agriculture
8. Shankar s/o Uttam Chaudhar
Age 48 years, Occupation: Agriculture
9. Shivaji s/o Uttam Chaudhar
Age 41 years, Occupation: Agriculture
10. Sharda w/o Janardhan Chaudhar
Age 39 years, Occupation: Household

11. Sau Manisha Janardhan Chaudhar @ ... **APPLICANTS**
Manisha Arun Funde
Age 20 years, Occupation: Household

All R/o Funde Vasti, Koradgaon Road,
Pathardi, Taluka Pathardi,
District Ahmednagar.

VERSUS

- 1) The State of Maharashtra
Through its Secretary
Home Department, Maharashtra State,
Mantralaya, Mumbai.
- 2) The Police Inspector,
City Police Station, Ambhora Taluka Ashti
District Beed.

- 3) Sau. Lankabai w/o Arun Funde ... **RESPONDENTS**
Age 30 years, Occupation: Household
R/o Chinchewadi, Taluka Ashti
District Beed.

Mr. M. S. Karad, h/for Mr. S. S. Thombre, Advocate for applicants
Mr. K. S. Patil, APP for Respondent Nos.1 and 2
Mr. V. P. Golewar, Advocate for respondent No.3

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

DATE : 18th 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. This application is under Section 482 of the Code of Criminal Procedure for quashing the proceedings in RCC No. 356/2014

pending before the learned Judicial Magistrate First Class, Ashti, district Beed, arising out of FIR in Crime No. 138/2013 registered with Ambhora Police Station, Taluka Ashti, District Beed for the offences punishable under Sections 498-A, 494, 109, 143, 323, 504 and 506 of the Indian Penal Code.

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 Application being withdrawn is to be disposed of to that extent.

4. So far as applicants 4 to 11 are concerned, it can be seen from F.I.R. that complainant Lankabai was married to Applicant No.1 Arun on 19.05.2001. Arun was serving in ready-made garments shop. It is alleged that husband and other members of the family started harassing complainant on demand of Rs.50,000/- for starting independent business of ready-made garments. As financial condition of her parents was not sound, her parents could not meet with demand. She was also illtreated on the ground that she had no issue from applicant no.1 and he would perform second marriage. Before lodging complaint on 20.10.2013, continuously for four years, she tolerated the illtreatment. It is alleged that before two years of the report, applicant No.1 Arun married to Applicant No.11 Manisha in connivance with applicants 7 to 10 .

5. It is further alleged that on 03.10.2013, complainant was driven out of the house. She is residing at her maternal place at Chinchewadi since then. Even thereafter, applicants continued harassment by giving threats to parents and brother of complainant.

6. It is pertinent to note that Respondent No.3 Lankabai filed MA No. 214/2008 under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against applicants 1 to 3. Copy of the petition is placed on record. In the application, she stated that she was driven out of the house on 25.07.2008. There is nothing to show that after 25.07.2008 she resumed the company of her husband and in-laws.

7. From FIR, it appears that applicant No.1 allegedly performed second marriage with Manisha in 2011. If in 2008, respondent No.3 was driven out of the house, there was no occasion for respondents 4 to 11 to torture her on the grounds stated in FIR. From copy of charge-sheet it is clear that respondents 4 to 11 are residing separately. They never resided in the same house with complainant. Nothing can be achieved if proceedings in RCC are allowed to be continued against Applicants 4 to 11. Thus to prevent the abuse of process of law, we find that discretion needs to be exercised to the extent of applicants 4 to 11.

8. In this view of the matter, Criminal Application No. 5909 of 2013 is partly allowed.

9. Proceedings in Regular Criminal Case No. 356/2014 pending before the learned Judicial Magistrate First Class, Ashti, district Beed, arising out of FIR in Crime No. 138/2013 registered with Ambhora Police Station, Taluka Ashti, District Beed are hereby quashed and set aside to the extent of applicants 4 to 11.

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

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

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

(T. V. NALAWADE, J.)

JPC