

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6320 OF 2014

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| 1. Vaishali w/o prakash Rajguru
Age 20 years, occupation: Housewife | Application dismissed
vide order dt.30.01.2015 |
| 2. Sanjay s/o Digambarrao Bhandare
Age- 56 Years, Occupation: Labour | |
| 3. Rohini w/o Sanjay Bhandare
Age 43 years, Occupation: Housewife | |
| 4. Kanchan d/o Sanjay Bhandare
Age 17 years, Occupation: Education
Minor, under guardianship of her father | ... APPLICANTS |

All R/o N-11, C-5-20/5, Dwarka Nagar
HUDCO, Aurangabad

VERSUS

- 1) The State of Maharashtra
Through the Police Inspector
Patoda Police Station, Patoda
Taluka Patoda, District: Beed

- 2) Prakash s/o Bapurao Rajguru ... **RESPONDENTS**
Age 25 years, Occupation: Business
Proprietor Ganesh General Stores
R/o Mahasangvi Road/Rest House Road
Taluka Patoda District Beed

Mr. Bipinchandra K. Patil, Advocate for applicants
Mr. K. S. Patil, APP for Respondent No.1-State
Mr. Rajendra Deshmukh, Advocate for respondent No.2

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

DATE : 17th 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 under Section 482 of the Code of Criminal Procedure is filed for quashing FIR in Crime No. I-156/2014 registered with Patoda Police Station, Taluka Patoda, District Beed for the offences punishable under sections 417, 418, 420, 497 read with 34 of the Indian Penal Code.

3. Application to the extent of Applicant No.1 Vaishali came to be dismissed being withdrawn by the order of this Court passed on 30.01.2015.

4. The facts giving rise to the instant application may be stated in brief as under:

- i. Complainant Prakash Bapurao Rajguru is husband of applicant No.1 Vaishali. Both were married on 14.12.2013 at Patoda. Applicant Nos. 2 and 3 are father-in-law and mother-in-law and applicant No.4 is sister-in-law of complainant Prakash. According to complainant, his father incurred expenses of Rs.2.50 lacs in the marriage.
- ii. The main grievance of husband against wife Vaishali is that she was having extra marital relations with one Sham Salunke, working in the same research company where Vaishali was serving. She used to

receive calls on mobile from Sham Salunke. It is alleged that just for four days, Vaishali stayed with complainant and his parents and thereafter, started frequently visiting the house of her father at Aurangabad. Complainant pacified her not to go often to her parents' house but she raised quarrel with him. Any how she cohabited with complainant for two months. It is the case of complainant that his wife and parents in-laws, though were knowing about her affair with Sham Salunke, did not disclose the same at the time of marriage and thereby deceived him and his family members.

5. During the course of arguments, learned counsel for respondent No.2/Complainant vehemently contended that at the time of settlement of marriage, applicants ought to have disclosed about the affair of Vaishali with Sham Salunke. He submitted that they deliberately suppressed the same and cheated the complainant and his family members. It was submitted that even after marriage, Vaishali continued her affair with Sham Salunke and when pacified by husband and others in family, she took otherwise and raised quarrels. Learned counsel also took us to the definitions of 'cheating' and 'adultery' under sections 415 and 497 of the Indian Penal Code and contended that it is not a fit case to exercise discretion.

6. On plain reading of definitions of cheating and adultery under sections 415 and 497, we are of the view that allegations in FIR, if taken as a whole on their face, do not make out any case against applicants 2 to 4.

Allegations are vague. No specific role is attributed to these applicants. Hence, to prevent the abuse of process of law, we find that discretion needs to be exercised in respect of applicants 2 to 4.

7. In view of the above, Criminal Application No.6320 of 2014 is partly allowed.

8. FIR in Crime No. I-156/2014 registered with Patoda Police Station, Taluka Patoda, District Beed for the offences punishable under sections 417, 418, 420, 497 read with 34 of the Indian Penal Code is hereby quashed and set aside to the extent of applicant Nos. 2) Sanjay, 3) Rohini and 4) Kanchan Bhandare.

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

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

(T. V. NALAWADE, J.)

JPC