

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

CRIMINAL APPLICATION NO. 6661 OF 2014

- 1] Mahesh S/o Balasaheb Neel,
Age : 31 Years, Occu : Service,
R/o: B-23, Dwarka nagari,
Vijaypur Road, Solapur-431004.
- 2] Balasaheb S/o Trimbak Neel,
@ Balu S/o Trimbak Neel
Age : 56 Years, Occu : Peon,
D.C.C. Bank Solapur, Branch Hattur,
R/o : B-23, Dwarka nagari,
Vijaypur Road, Solapur-431004.
- 3] Mandakini W/o Balasaheb Neel,
Age : 53 Years, Occu : Household,
R/o: B-23, Dwarka nagari,
Vijapur Road, Solapur-431004.
- 4] Mahendra S/o Balasaheb Neel,
Age : 28 Years, Occu : Service,
R/o : Permanent Address Sr. No.48/18,
Flat No.402, NIRCON OAKWOOD, Narhe,
Pune-411041.
At present residing in United State of America.
- 5] Amruta W/o Mahendra Neel,
Age : 26 Years, Occu : Household,
R/o: Permanent Address Sr. No. 48/18,
Flat No. 402, NIRCON OAKWOOD, Narhe,
Pune-411041.
- 6] Mandar S/o Balasaheb Neel,
Age : 26 years, Occu : Service,
R/o: Permanent Address Sr. No. 48/18,
Flat No. 402, NIRCON OAKWOOD, Narhe,
Pune-411041.
- 7] Hemant S/o Ganpati Waghchavare,
Age : 50 Years, Occu. Teacher Z.P. Solapur,
R/o : Indira Nagar, Solapur.

- 8] Mangesh S/o Ganpati Wagchavare,
Age : 48 Years, Occu : Laboratory Attendant,
R/o : at Wadapur, Post : Kusar,
Dist : Solapur.

....Applicants.

Versus

- 1] The State of Maharashtra
Through Police Station,
Ausa, Dist. Latur.
- 2] Shubhangi W/o Mahesh Neel,
@ Shubhangi Shivaji Salunke,
Age : 26 Years, Occu : Nil,
R/o : Ganesh Nagar, Ausa, Tq. Ausa,
Dist : Latur.

....Respondents.

Mr. Ajinkya Reddy, Advocate for applicants.

Mr. K.S. Patil, APP for State/respondent No. 1.

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

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

DATED : 7th April, 2015.

JUDGMENT :

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

2) The proceeding is filed under section 482 of Criminal Procedure Code and under Article 226 of Constitution of India for relief of quashing of F.I.R. No. 156/2014 registered in Ausa Police Station, Tahsil Ausa, District Latur for the offences punishable

under section 498-A, 323, 34 etc. of Indian Penal Code. During arguments, the learned counsel for applicant Nos. 1 to 4 and 6 submitted on instruction that he wants to withdraw the application of these applicants and so, their application is disposed of as withdrawn.

3) The crime is registered on the basis of report given by Smt. Shubhangi Neel, wife of applicant No. 1. Their marriage took place on 27.12.2011. It is her case that after eight days of the marriage, illtreatment was given to her by her husband and relatives of husband. According to her, they were saying that she was not cooking properly and the husband was not liking her. Applicant Nos. 2 and 3 are the parents of the husband of the complainant. Applicant Nos. 4 and 6 are brothers of the husband of the complainant. Applicant No. 5 is the wife of applicant No. 4 and applicant Nos. 7 and 8 are the maternal uncles of the husband of the complainant.

4) It is the case of complainant that on 24.4.2012 her husband, parents of the husband, brother in law Mahendra and wife of Mahendra took the ornaments which were on her person and the ornaments were of 13 tola gold.

5) It is the case of complainant that on 29.4.2012 at about 11.00 a.m. in Pune, quarrel was picked up with her and during quarrel, beating was given to her by brother in law - Mandar and mother in law - Mandakani. It is her case that when they started living in Pune, where she was cohabiting with husband, the maternal uncles of the husband started visiting that place and they started saying that the amount of dowry of Rs. five lakh needs to be taken from the parents of the complainant. It is her case that on 21.9.2012 her brother in laws - Mahendra, Mandar and applicant No. 5 - Amruta drove her out of the house from Pune and then she returned to the house of her parents, to AUSA.

6) It is the case of complainant that on 13.3.2013 she, her parents and her uncle went to Latur, the native place of her husband to settle the dispute, but her husband attempted to press her neck. It is her case that on that occasion also, she was driven out of the matrimonial house. She had given report to police from Solapur. It is her case that on 29.8.2014 when she was in the house of her parents, the husband and his relatives came there, to AUSA and said that their demand of Rs. five lakh as dowry needs to be met with.

7) The learned counsel for the applicants took this Court through some record to show that the brothers of the husband of the complainant and other relatives are living separate from the husband. Some record like copy of divorce proceeding filed by husband is produced to show that the proceeding came to be filed on 28.1.2013, well before the registration of the crime. It is argued that the complainant is not interested in resuming cohabitation and she has exaggerated the things to pressurize the applicants.

8) The record shows that the husband refused to accept the complainant back in the matrimonial house when attempt was made on previous occasion, in the month of March 2013 by the mediators, Women Grievance Redressal Forum. It appears that she has filed proceeding under Domestic Violence Act also and in the past, she had approached police, though serious allegations like in the present matter were not made in the past by her. It can be said that the husband wants divorce from her.

9) Some record is produced to show that Mahendra was on duty in company from Pune from 28.8.2014 to 31.8.2014. This record is produced to show that on one day, mentioned in the complaint, Mahendra was not at the place mentioned by the

complainant. This stand of Mahendra cannot be considered at this stage as there are other allegations also against Mahendra. It can be said that there are specific allegations against the husband, his two brothers and his parents. However, it can be said that applicant No. 5 - Amruta and applicant Nos. 7 and 8, the maternal uncles of the husband had no role to play or they had no reason to give illtreatment to the complainant. Amruta was cohabiting with her husband at different place. Applicant Nos. 7 and 8 are also residents of different place. A tendency is developed to rope in all the relatives of the husband in view of the wording of provision of section 498-A of I.P.C. There is clear possibility of false implication of these three applicants. This Court holds that in view of the nature of allegations made against them, which are very vague and other circumstances, the F.I.R. given against them needs to be quashed and set aside. It will be abuse of process of law if they are required to face the prosecution.

10) The learned counsel for applicants placed reliance on the followed cases :-

**(i) (2005) 3 Supreme Court Cases 507
[Ramesh and Ors. Vs. State of T.N.],**

(ii) (2010) 11 Supreme Court Cases 749

[Pashaura Singh Vs. State of Punjab and Anr.],

(iii) (2013) 14 Supreme Court Cases 374 [Chandralekha and Ors. Vs. State of Rajasthan and Anr.],

(iv) (2009) 14 Supreme Court Cases 244 [Sunder Babu and Ors. Vs. State of Tamil Nadu],

(v) (2010) 7 Supreme Court Cases 667 [Preeti Gupta and Anr. Vs. State of Jharkhand and Anr.],

(vi) 2014 SCC OnLine SC 449 [Swapnil and Ors. Vs. State of Madhya Pradesh],

(vii) Criminal Application No. 5429/2014, dated 23/12/2014 decided by Bombay High Court (Aurangabad Bench) [Kailas s/o. Damodar Pathe and ors. Vs. The State of Maharashtra and Anr.].,

(viii) Criminal Application No. 5779/14 dated 24/2/2015 decided by Bombay High Court (Aurangabad Bench) [Saleha w/o. Sadik Sayed and ors. Vs. The State of Maharashtra and Anr.].

This Court has considered the observations made in the aforesaid cases by the Apex Court and the High Court. There cannot be any dispute over the observations and propositions made in the aforesaid cases.

11) In the result, application of applicant No. 5, 7 and 8 viz. Amruta w/o. Mahendra Neell, Hemant s/o. Ganpati Waghchavare and Mangesh s/o. Ganpati Waghchavare, respectively, is allowed. The aforesaid F.I.R. given against them is hereby quashed and set aside to that extent only. Rule is made absolute in aforesaid terms.

12) The proceeding of other applicants is disposed of as withdrawn.

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

[T.V. NALAWADE, J.]

ssc/