

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.125 OF 2016**

1. Sharad s/o. Madhukar Aghav,  
Age 32 Years, Occ.Medical Practitioner
2. Hirabai Madhukar Aghav,  
Age 60 Years, Occ. Household.
3. Sandhya Madhukar Aghav,  
Age 30 Years, Occ. Service,  
  
Sr.Nos.1 to 3 R/o. Madhukar Niwas,  
Vasant Tekadi, Ahmednagar,  
Tal. & District Ahmednagar.
4. Asmita Vitthal Budhwant,  
Age 40 years, Occ. Medical Practitioner,  
R/o. Balamtakali, Tal.Shevgaon,  
District Ahmednagar.
5. Sahebrao s/o. Balaram Aghav,  
Age 54 Years, Occ. Service,  
R/o. Vasant Tekadi, Shriram Chowk,  
Ahmednagar, Tal. & Dist.Ahmednagar.
6. Dattatray s/o. Balaram Aghav,  
Age 60 years, Occ. Pensioner,  
R/o. Newasa, Tal. Newasa,  
District Ahmednagar.
7. Chandrakant s/o. Balaram Aghav,  
Age 67 years, Occ. Pensioner,  
R/o. Sonai, Tal. Newasa,  
District Ahmednagar.
8. Popat s/o. Balaram Aghav,  
Age 50 years, Occ. Service,  
R/o. as above.

**APPLICANTS**

**VERSUS**

1. The State of Maharashtra,  
Through Police Inspector,  
Police Station, Pathardi,  
Tal. Pathardi, Dist. Ahmednagar
2. Sau. Vaishali w/o. Sharad Aghav,  
Age 28 Years, Occ. Household,  
R/o. Pagori Pimpalgaon, Tal.Pathardi,  
District Ahmednagar. **RESPONDENTS**

...

Mr.S.S.Thombre, Advocate for the applicants  
Mr.S.W.Mundhe, APP for respondent No.1.  
Mr.Y.B.Bolkar, Advocate for Respondent No.2.

...

**CORAM: S.S.SHINDE &  
SANGITRAO S.PATIL, JJ.**

Reserved on : 22.09.2016  
Pronounced on : 28.09.2016

**JUDGMENT:** (Per S.S.Shinde, J.):

Heard. Rule. Rule made returnable  
forthwith and heard finally with the consent  
of the parties.

2. This Criminal Application is filed  
taking exception to the First Information  
Report bearing Crime No.I-344/2015 registered  
with the Pathardi Police Station, Pathardi,

District Ahmednagar on 28.10.2015 for the offences punishable under Sections 498-A, 323, 504, 506 r/w. 34 of the Indian Penal Code.

3. Respondent no.2, who is the informant, filed First Information Report (for short 'FIR') stating therein that her marriage was performed with applicant no.1 - Sharad on 23<sup>rd</sup> February, 2015. Initially, she was treated well, however, thereafter applicant nos. 1 to 3 started ill-treating her and asked her to bring Rs.15 lacs from her parents and maternal uncle for construction of Hospital at Ahmednagar. It is further stated that the applicants, on not fulfilling the demand, started abusing and assaulting respondent no.2 and also suspecting her chastity. The other relatives i.e. applicant nos.4 to 8 used to instigate applicant nos.1 to 3 and telling them that unless respondent no.2 brings money from her

parents, applicant no.1 should not continue matrimonial ties with her. It is further stated that on 3<sup>rd</sup> August, 2015, the members of matrimonial house have removed ornaments of respondent no.2 given by her parents at the time of marriage and drove out of matrimonial home. Thereafter, respondent no. 2 started residing with her parents in parental house at Pagori Pimpalgaon, Taluka Pathardi, District Ahmednagar. It is further stated that even thereafter on 8<sup>th</sup> September, 2015 at 7.30 p.m. the members of the matrimonial house came to the parents house at Pagori Pimpalgaon and instigated her to sign on the blank papers since applicant no.1 wanted to take divorce from her. Upon refusal to signing on the blank papers, the husband and mother-in-law abused and assaulted her.

4. The learned counsel appearing for the applicants submits that the allegations in the FIR are vague and general in nature.

There was no demand of money or ill-treatment as alleged in the FIR, applicant nos.4 to 8 are not residing in matrimonial house. Applicant no.4 is a Medical Practitioner, residing at Balamtakali, Taluka Shevgaon, District Ahmednagar. Applicant no.5 is in service and the allegations in the FIR against him are not sustainable. Applicant no.6 is residing at Newasa. Applicant no.7, who is senior citizen, is also residing at Sonai, Taluka Newasa, District Ahmednagar and applicant no.8 is also in service, and therefore, the allegations made in the FIR are false and FIR deserves to be quashed keeping in view the exposition of law in the case of ***State of Haryana V/s Bhajanlal***<sup>1</sup>.

5. On the other hand, the learned APP appearing for the respondent – State submits that the investigation is in progress. The allegations in the FIR disclose offences

---

1 AIR 1992 SC 604

those need investigation, and therefore, the application for quashing of FIR may be rejected.

6. We have considered the submissions of the learned counsel appearing for the applicants and the learned APP appearing for the respondent – State. With their able assistance, perused the averments in the application, annexures thereto, the contents of the FIR and also the copies of the documents placed on record. Respondent no.2 has not denied that applicant nos.4, 6 and 7 are not residing at her matrimonial home and they are residing separately at different places than the places wherein the matrimonial home is situate.

7. Upon careful perusal of the contents in the FIR, there are no specific allegations qua applicant nos.4 to 8. There are general allegations in the FIR about demand of Rs.15

lacs. It appears that the allegations are against applicant nos.1 to 3 about demand of money. In addition to that it is alleged that applicant no.1 was suspecting chastity of respondent no.2. It is vaguely stated that other relatives i.e. applicant nos.4 to 8 also instigated applicant nos.1 to 3. There is specific reference of two incidents those took place on 3<sup>rd</sup> August, 2015 and 8<sup>th</sup> September, 2015, alleging that the members, who are residing in the matrimonial home, were involved therein. Therefore, even if the allegations in the FIR are taken as they are, there are no specific allegations and instances stated in the FIR as against applicant nos.4 to 8. However, so far applicant nos.1 to 3 are concerned, there are allegations with specific dates that they demanded Rs.15 lacs and also ill-treated respondent no.2 and suspected her chastity.

8. The Supreme Court in the case of

**Geeta Mehrotra and another Vs. State of Uttar Pradesh and another**<sup>2</sup> in the facts of that case held that casual reference to a large number of members of the husband's family without any allegation of active involvement would not justify taking cognizance against them and subjecting them to trial. In the said judgment, there is also reference of the judgment of the Supreme Court in the case of **G.V.Rao Vs.L.H.V. Prasad**<sup>3</sup> wherein para 12 it is observed thus:

*"12. There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family*

---

2 (2012) 10 SCC 741

3 (2000) 3 SCC 693

*are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their 'young' days in chasing their 'cases' in different courts."*

9. In the light of discussion in the foregoing paragraphs, we are of the opinion that further continuation of the investigation as against applicant nos.4 to 8 will be exercise in futility and abuse of process of law. Therefore, the FIR to the extent of applicant nos.4 to 8 stands quashed and set aside.

10. As already observed, as against applicant nos.1 to 3 there are specific allegations and also dates are mentioned, therefore, the FIR needs further investigation qua applicant nos.1 to 3.

11. Rule is made absolute partly. Criminal Application is disposed of accordingly.

Sd/-  
[SANGITRAO S.PATIL]  
JUDGE

Sd/-  
[S.S.SHINDE]  
JUDGE