

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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CRIMINAL APPLICATION NO. 3875 OF 2016

SANGHAPAL S/O RAMESH AWACHAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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Advocate for applicants: Mr. R.O. Awasarmol
APP for Respondent/State: Mr. A.A. Jagatkar
Advocate for respondent no. 2: Mr. B.S. Kudale

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CORAM: S.S. SHINDE & K.K. SONAWANE, JJ.
Dated: November 15, 2016

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Heard the learned counsel appearing for the applicants. He submits that applicant no. 1 filed the Petition for restitution of conjugal right and thereafter, the F.I.R. is lodged. Even if the allegations in the F.I.R. are taken at its face value and read in its entirety, no offences are disclosed, as alleged in the said F.I.R. There are no particular date and time mentioned in the F.I.R. about commission of alleged

offences. He further submits that applicant no.6 is not relative of the husband of applicant no.1, and therefore, ingredients of section 498A of I.P. Code are not attracted. He further submits that applicant no.6 never visited the matrimonial home, and therefore, the application deserves consideration.

2. On the other hand, the learned A.P.P. appearing for the Respondent/State and the learned counsel appearing for the informant invited our attention to the statements of the witnesses and submit that the applicants are named in the F.I.R. The specific overt acts are attributed to them. The Investigating Officer has investigated the offence and the statements of the witnesses can only be tested during the trial. Therefore, this Court may not accede to the prayer of the applicants.

3. Upon hearing the learned counsel appearing for the applicants, the learned A.P.P. appearing for the Respondent/State, the learned counsel appearing for the informant and upon careful perusal of the allegations in the F.I.R. and also the statements of the witnesses, we are

of the considered view that this application cannot be entertained. So far as applicant no.6 is concerned, though the ingredients of section 498-A of the I.P. Code are not attracted, there are allegations attributing ingredients of other sections of I.P. Code. In that view of the matter, we are not inclined to entertain the present application. Hence the application stands rejected.

4. However, we make it clear that rejection of this application cannot be construed as an impediment to the applicants in case they wish to avail the appropriate remedy of filing application for discharge before the concerned Court.

(K.K.SONAWANE, J)

(S.S. SHINDE, J)