

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

Criminal Application No. 4037 of 2016

District : Beed

1. Uttam s/o. Govindrao Gangne,
Age : 67 years,
Occupation : Nil,
R/o. Radi,
Taluka : Ambajogai,
District : Beed.

2. Lalita w/o. Bhagwat Ganggne,
Age : 62 years,
Occupation : Household,
R/o. Radi,
Taluka : Ambajogai,
District : Beed.

3. Vidya w/o. Vishal Ganggne,
Age : 28 years,
Occupation : Household,
R/o. Radi,
Taluka : Ambajogai,
District : Beed.

.. Applicants.

versus

The State of Maharashtra.

.. Respondent.

.....

Mr. Satej S. Jadhav, Advocate, for applicants.

*Mr. A.S. Shinde, Addl. Public Prosecutor, for
the respondent.*

.....

CORAM : A.M. BADAR, J.

DATE : 26TH AUGUST 2016

ORAL ORDER:

Applicants - cousin father-in-law, mother-in-law and co-sister of deceased Shilpa Deepak Gangne are accused in Crime No. 48/2016, for offences punishable under Sections 498A, 306, 304B read with Section 34 of the Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act, registered with Police Station, Ambajogai (Rural), Taluka Ambajogai, District Beed, at the instance of her mother Shobha. By this application, they are seeking pre-arrest bail.

2. Heard the learned Counsel for applicants as well as the learned Addl. Public Prosecutor for the respondent.

3. The learned Addl. Public Prosecutor opposed the application by contending that the crime in question is serious and Shilpa died within 7 years of her marriage with Deepak in abnormal circumstances. The learned Addl. Public Prosecutor submitted that statements of relatives of deceased Shilpa goes to show that she was subjected to cruelty on account of demand of balance amount of Rs. 1,00,000/- towards dowry as well as additional demand of Rs. 50,000/- for purchase of motorcycle.

4. Perused papers of investigation. FIR lodged

by Shobha Bhise shows that Shilpa married Deepak on 29.04.2013 and thereafter she started to cohabit with him at village Radi. Applicant no.1 Uttam is cousin father-in-law of deceased Shilpa. Applicant no.2 Lalita is her mother-in-law, whereas applicant no.3 Vidya is wife of brother of Deepak Gangne - husband of deceased Shilpa.

5. Averments in the FIR are to the effect that at the time of marriage of Shilpa with Deepak, dowry of Rs. 2,51,000/-, 7 Tolas of gold and bearing expenses of marriage was settled. Out of that, her parents paid dowry of Rs. 1,50,000/- and 7 Tolas of gold. Dowry of Rs. 1,00,000/- was in balance.

6. Informant - mother of the deceased averred that on account of demand of balance amount of Rs. 1,00,000/- towards dowry, applicant no.1 Uttam was subjecting Shilpa to cruelty by assaulting her, by not providing food to her and by asking her to do more work. Then, according to the informant, Shilpa was sent to her parental house for some days. After death of her father, Shilpa was again taken to her matrimonial house by her husband Deepak and her brother-in-law Vishal.

7. According to the informant, she was thereafter nicely treated for 5 - 6 months and then again harassment to her started by applicant no.2

Lalita and brother of her husband for bringing Rs. 1,00,000/- towards balance amount of dowry of Rs. 50,000/- for purchasing motorcycle. Thereafter, according to the prosecution case, Shilpa committed suicide on 19.06.2016 at her matrimonial house at Radi.

8. Perusal of statements of Anurath Bhise, Rajabhau Yadav and Madhukar Yadav, who are parental relatives of deceased Shilpa, reflects same averments.

9. In nutshell, averments against applicant no.1 Uttam are to the effect that he was assaulting deceased Shilpa; he was not providing food to her and he was requiring her to do more work. Averments against mother-in-law Lalita are to the effect that she was harassing Shilpa for coercing her to bring Rs. 1,00,000/- as well as Rs. 50,000/- towards dowry and for purchasing motorcycle. Statements of parental relatives as well as FIR does not reveal any tangible allegation in respect of cruelty against applicant no.3 Vidya.

10. On this backdrop, spot Panchanama as well as statements of several witnesses residing at village Radi, including next door neighbour Shivaji Gangne goes to show that deceased Shilpa was residing separately from her in-laws. She was staying in an

independent house made up of cement concrete, with her husband Deepak and two years' son Jay. In one room of that house, she was taking tuition classes. This fact is vouched by even Vilas Gangne and Balaji Gangne. Statements of Dnyaneshwar Shinde, Ananda Jagtap, Sk. Sattar Sk. Farid and Digambar Gangne also reflects the same thing. Papers of investigation prima facie shows that applicant no.1 Uttam was residing separately, so also applicant no.2 Lalita and applicant no.3 Vidya were residing separately from deceased Shilpa and her husband Deepak.

11. On this backdrop, how applicant no.1 Uttam was not providing food to Shilpa and how he was assaulting her and requiring her to do more work, is a factor which is not getting answer from papers of investigation. Similar is the case so far as applicant no.2 Lalita and applicant no.3 Vidya are concerned.

12. In this view of the matter, though the offence is heinous having deep impact on the society, interest of the investigator cannot get priority. Liberty of applicants needs to be protected in the wake of material available against them in the papers of investigation.

13. Hence, I pass the following order :-

(a) The Application is allowed.

(b) Applicants / accused, in the above crime, in the event of their arrest, be released on bail on their executing P.R. Bond in the sum of Rs. 15,000/- each and on furnishing one or more solvent sureties of the like amount by each of them.

(c) As a condition of this order, applicants shall attend concerned Police Station on 4th September 2016 and 11th September 2016, in between 11.00 a.m. and 01.00 p.m. and thereafter as and when reasonably called by the Investigating Officer for the purpose of investigation. Applicants shall cooperate the investigator in investigation of the crime in question.

(d) Applicants / accused shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

(e) Applicants shall not tamper with the prosecution evidence in any manner and shall cooperate the learned trial Judge in expeditious disposal of the trial, if any.

(f) Applicants shall not repeat commission of similar

type of offences in future.

14. The Application stands disposed of in the
aforesaid terms.

(A.M. BADAR)
JUDGE

.....