

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

917 CRIMINAL APPLICATION NO. 4658 OF 2016

**JANABAI W/O NAVNATH WAGHCHAURE
& ORS.**

VERSUS

THE STATE OF MAHARASHTRA

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Mr. V.R.Dhorde, Advocate for Applicants.

Mr. S.M.Ganachari, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 31st AUGUST, 2016

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PER COURT :

1. Applicants, who are accused in Crime No. 207/2016 registered at Vaijapur police station, Vaijapur, Dist. Aurangabad for the offences punishable U/ss 498-A, 306, 323, 504 read with 34 of the Indian Penal Code at the instance of Dnyaneshwar Nivrutti Gaikwad by this application are praying for pre-arrest bail.

2. Heard learned counsel for the applicants/accused. He argued that applicant No. 1 Janabai is mother-in-law, whereas applicant No. 3 Ganesh is brother-in-law of deceased

Swati. Applicant No. 2 Karbhari Ugale is maternal uncle of husband of deceased Swati. Learned counsel submitted that applicant Nos. 2 and 3 were residing separately. By drawing my attention to the F.I.R., learned counsel argued that cruelty to the deceased Swati is not *prima facie* established. He submitted that Swati was at her parental house up to 27/03/2016 and there is no evidence as to what happened subsequently to her in respect of cruelty.

3. Learned A.P.P. opposed the application by contending that statements of mother and other parental relatives of deceased Swati corroborated the version of the informant and Swati died within 7 years of her marriage because of cruelty inflicted by the applicants to her.

4. Perused papers of investigation including F.I.R. It is not in dispute that Swati married Babasaheb on 05/04/2014 and thereafter she started cohabiting with her husband. It is not in dispute that on 25/07/2016, Swati died because of burn injuries.

5. What cruelty means is explained by explanation to Section 498-A of the Indian Penal Code. Harassing a married woman for forcing her to bring money and valuable articles also amounts to cruelty. According to the prosecution case, the applicants and co-accused subjected deceased Swati to cruelty by demanding money from her.

6. The averments in the F.I.R. are to the effect that

after her marriage, on 05/04/2014, Swati was treated nicely up to October, 2014. Thereafter, her husband and applicant No. 1 Janabai started demanding money from her by insisting her to bring Rs. 50,000/- from her parental relatives. Her parents then paid Rs. 10,000/- to the accused persons. Thereafter, again her husband and in-laws started demanding Rs. 40,000/- from her and she was harassed by beating and not providing food. It is further averred that as Swati was unable to conceive, her mother-in-law and brother-in-law were asking her to go back to her parental house so as to enable them to perform marriage of her husband second time. From February 2016 to 27/03/2016, deceased Swati was with her parents and subsequently she made telephonic call to her parents that her in-laws and husband are harassing her by beating her and not providing food to her for demand of money.

7. Papers of investigation reveals that Swati died suicidal death within about 2 years of her marriage with Babasaheb. Perusal of the F.I.R. as well as statement of her parental relatives goes to show that her husband and in-laws, particularly, her mother-in-law was demanding Rs. 50,000/- from her and part of this demand was fulfilled by her parents by paying Rs. 10,000/- to her in-laws. The averments regarding harassment are beating, not providing food and abuses. There are specific allegations against mother-in-law of deceased Swati i.e. applicant No. 1 Janabai. *Prima facie* these averments amounts to cruelty as envisaged in explanation to Section 498-A of the Indian Penal Code.

8. Further, so far as applicant No. 2 Karbhari Ugale is concerned, he is maternal uncle of husband of deceased Swati. He is resident of some other ward in the village. Statements of parental relatives of deceased Swati goes to show that he used to instigate in-laws of Swati for demanding money. Similarly, so far as applicant Ganesh is concerned, the averments are to the effect that after fulfillment of demand of Rs. 10,000/- by the parents of deceased Swati, he was asking Swati to bring remaining amount of Rs. 40,000/- and thereafter used to give abuses and assault to deceased Swati. My attention is drawn to the certificate issued by Shubham Industries which goes to show that Ganesh was working with the said Industry at Waluj as machine operator. It hardly needs to be emphasized that in such type of matrimonial offences, tendency is to rope as many matrimonial relatives as possible. Considering the role attributed to applicant Nos. 2 and 3, in my opinion, evidence against other applicants *prima facie* does not establish cruelty to deceased Swati. However, so far as applicant No. 1 Janabaibai is concerned, there are specific allegations that Swati was used to be coerced by her by demand of money and consequently applicant No. 1 used to harass deceased Swati.

9. At this stage, learned counsel for the applicants, on instructions, sought permission to withdraw the application so far as applicant No. 1 Janabai is concerned.

10. Hence, the following order.

(i) The application of applicant No. 1 Janabai stands rejected as withdrawn.

(ii) In the event of their arrest in Crime No. 207/2016 registered at Vaijapur police station, Vaijapur, Dist. Aurangabad for the offences punishable U/ss 498-A, 306, 323, 504 read with 34 of the Indian Penal Code, applicant No. 2 Karbhari s/o Sambat Ugle and applicant No. 3 Ganesh s/o Navnath Waghchaure be released on bail on executing P.R. Bond of Rs. 10,000/- [Rupees Ten Thousand] each and on furnishing surety in the like amount.

(iii) As a condition of this Order, the applicants shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.

(iv) The applicants shall not tamper the evidence of the prosecution.

(v) The applicants shall attend concerned police station on 11/09/2016 in between 11.00 a.m. and 1.00 p.m. and they should co-operate Investigating Officer in the investigation of the crime in question.

[A.M.BADAR, J.]