

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

CRIMINAL APPLICATION NO. 5411 OF 2012

1. Krishnavilas s/o. Devrao Vibhute .. Applicants
Age. 32 years, Occ. Labourer,
R/o. Jhavar-Nagar, Near Baba-Nagar,
Nanded.
2. Devrao s/o. Piraji Vibhute,
Age. 65 years, Occ. Nil,
R/o. As above.
3. Haribai w/o. Devrao Vibhute,
Age. 60 years, Occ. Household,
R/o. As above.
4. Parmeshwar s/o. Devrao Vibhute,
Age. 26 years, Occ. Labourer,
R/o. As above.

Versus

1. Poonam d/o. Balaji Telang .. Respondents
Age. 26 years, Occ. Tailoring,
C/o. Balaji s/o. Suryakant Telang,
R/o. Datta Nagar, Behind Vaishnavi
S.T.D. Nanded, Tq. & Dist. Nanded.
2. The State of Maharashtra

Mr.G.G. Kadam, Advocate for the applicants.
Mr.S.N. Janakwade, Advocate for respondent No.1.
Mr.P.N. Kutti, A.P.P. for respondent No.2.

**CORAM : Z.A. HAQ, J.
DATED : 17.11.2016**

P.C. :-

1. Heard. The applicants have challenged the order passed by the Sessions Court, dismissing the revision filed by them and maintaining the order passed by the learned Magistrate framing charge against the applicants for offence punishable under section 498-A of the Indian Penal Code and under section 4 of the Dowry Prohibition Act.

2. On complaint filed by the present non-applicant No.1 against the present applicant No.1 (husband of the complainant), present applicant No.2 (father-in-law of the complainant), present applicant No.3 (mother-in-law of the complainant), present applicant No.4 (brother-in-law of the complainant) and Daivata (sister-in-law of the complainant), after recording evidence before charge, the learned Magistrate framed charge against the present applicants for the offences punishable under section 498A of the Indian Penal Code and under section 4 of the Dowry Prohibition Act. The learned Magistrate found that the evidence on record is not sufficient to frame charge against Daivata – daughter of Devrao Vibhute.

. The present applicants had filed Criminal Revision Application before the Sessions Court challenging the framing of charge against them. The

learned Additional Sessions Judge has dismissed the Revision Application by the impugned order.

3. The learned Advocate for the applicants has referred to the averments in the complaint filed by non-applicant No.1 and her evidence before charge and has submitted that there are material contradictions and variations, which show that the complaint is lodged by non-applicant No.1 against applicant No.1 and his family members, to pressurize applicant No.1 to live in a separate house, away from his family members.

. The learned Advocate for non-applicant No.1 has supported the impugned order.

4. With the assistance of the learned Advocate for the respective parties, I have examined the documents placed on record. In paragraph No.4 of the complaint, it is averred that the present applicant Nos.1 to 3 had gone to the house of the complainant on 18.07.2006 and demanded an amount of Rs.20,000/- towards dowry. In paragraph No.5 of the complaint a vague statement is made that the accused persons have demanded dowry. In paragraph No.6 of the complaint, it is stated that accused Nos.1 and 4 are addicted to bad vices and the amount is demanded for their bad habits. It is stated

that in August, 2006, accused No.1,2 and 4 had driven away the complainant from the house and she was asked to bring Rs.20,000/- from her parents. In paragraph No.10 it is stated that accused No.5—Daivata (daughter of Devrao Vibhute) disliked the complainant and insulted her. In the evidence before charge, non-applicant No.1/complainant has stated that accused No.1 (husband) and accused No.2 (father-in-law) are addicted to liquor and they demanded money to fulfil their addiction. There is nothing against present applicant No.4 in the evidence before charge.

5. After considering the material on record I find that the charge for the offence punishable under section 498-A of the Indian Penal Code and for offence punishable under section 4 of the Dowry Prohibition Act, could not have been framed against present applicant Nos.2 to 4. The evidence on record is not sufficient to enable the Court to frame the charge.

6. Framing of charge against present applicant No.1 (husband of the complainant) and order passed by the Additional Sessions Judge dismissing the revision of the present applicant No.1 cannot be faulted with, as no material inconsistency is pointed by the learned advocate for the applicant in the averments in the complaint and

the evidence before the charge of the complainant. In view of the above, following order is passed :-

i. The charge framed against present applicant No.2 – Devrao Piraji Vibhute, present applicant No.3-Haribai w/o. Devrao Vibhute and present applicant No.4-Parmeshwar s/o. Devrao Vibhute for the offence punishable under section 498A of the Indian Penal Code and under section 4 of the Dowry Prohibition Act is quashed and complaint filed by non-applicant No.1 against applicant Nos.2 to 4 is dismissed.

ii. The order passed by learned Magistrate framing charge against applicant No.1-Krishavilas s/o. Devrao Vibhute is not interferred with and the order passed by the learned Sessions Court is modified accordingly. The learned Magistrate shall proceed with the complaint filed by non-applicant No.1 against present applicant No.1, according to law.

. The Criminal Application is partly allowed in the above terms. In the circumstances, the parties to bear their own costs.

[Z.A. HAQ,J.]