

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

CRIMINAL APPLICATION NO. 3575 OF 2016

1. Ganesh Bhikanrao Hire
Age : 30 years, Occu. Agril.,
R/o Bodhegaon BK., Tq. Phulambri
Dist. Aurangabad
2. Shashikalabai Bhikan Hire,
Age : 63 years, Occu. Household,
R/o : As above.
3. Nandabai Shashikant Khese,
Age : 35 years, Occu. Household,
R/o Kathrad, Tq. Rahata,
Dist. Ahmednagar.

...APPLICANTS

Versus

1. The State of Maharashtra
Through Police Inspector Paithan Police Station,
Aurangabad.
2. Yogita Ganesh Hire
Age : 30 years, Occu. Household.,
R/o Bodhegaon BK. Tq. Phulambri
Dist. Aurangabad
Presently residing at Bhavani Nagar, Paithan,
Tq. Paithan, Dist. Aurangabad.

...RESPONDENTS

.....

Mr. S.A. Gaikwad ,Advocate for Applicant
Mr. D.R. Kale, AGP for Respondent – State
Mr. R.C. Bora h/f Mr. S.G. Dhumak, Advocate for Respondent
No.2

....

**CORAM : S.S. SHINDE AND
K.K. SONAWANE, JJ.**

DATED : 7th FEBRUARY, 2017.

JUDGMENT :- (PER : K. K. Sonawane, J.)

1. Rule. Rule made returnable forthwith. Heard finally, with consent of learned counsel appearing for the parties.
2. Present application is filed by the applicants under section 482 of the Criminal Procedure Code for quashing the First Information Report ("FIR" for short) bearing crime No. 0181 of 2016 registered with Paithan Police Station, District Aurangabad for the offences punishable under sections 377, 498A, 323, 504 and 506 read with section 34 of the Indian Penal Code.
3. At the outset, learned counsel appearing for the applicants seeks leave to withdraw the present application to the extent of applicant No. 1-Ganesh Bhikanrao Hire.
4. Leave granted.
5. The application stands dismissed as withdrawn as against applicant No. 1 - Ganesh Bhikanrao Hire.
6. So far as applicants No. 2 Shashikalabai Bhikan Hire and (3) Nandabai Shashikant Khese are concerned, learned counsel appearing for the applicants submits that applicant No. 2 is mother-in-law whereas applicant No. 3 is sister-in-law of respondent No. 2 - complainant -Yogita. The applicant No. 3 is resident of Katharad, Ta. Rahata District Ahmednagar. There are

no specific allegations against them in the FIR. The marriage of respondent No. 2 was solemnized with applicant No. 1 Ganesh in the year 2008 and after lapse of period of 8/9 years the complainant - Yogita filed present complaint. There are general and vague allegations made in the FIR, which are not sustainable. Therefore, learned counsel appearing for the applicants submits that the application deserves to be allowed to the extent of applicants No. 2 and 3.

7. The learned APP appearing for respondent - State and learned counsel appearing for respondent No. 2 raised objection to the contentions put forth on behalf of the applicants No. 2 and 3. According to learned counsel appearing for respondents, applicant No. 2 being mother in-law and applicant No. 2 being sister in law of the complainant -Yogita maltreated and harassed her on account of demand of money. It has been alleged that when complainant - Yogita was pregnant that time applicant No. 2 Shashikalabai insisted her to do the hard domestic work. It has been alleged that due to maltreatment there was miscarriage of the complainant. Hence, learned counsel appearing on behalf of respondents prays not to nod in favour of the applicants.

8. We have given careful consideration to the submissions advanced by the learned counsel appearing for the parties, with their able assistance perused the pleadings in the petition,

grounds taken, annexures thereto, affidavit in-reply filed by respondent No. 2 and contents of the complaint-FIR. The FIR of the complainant Yogita demonstrate that there are vague and omnibus allegations against applicant No.2 Shashikalabai and applicant NO. 3 Nandabai in regard to maltreatment and harassment on account of demand of money. It appears from the FIR that after the marriage the complainant cohabited with the applicants for short period of nine to ten months and thereafter she left the matrimonial house and started residing at her parents house. These circumstances also support the contention propounded on behalf of the applicants. After the marital discord there was compromise arrived with elder persons of the family and applicant No. 2 - Shashikalabai, mother in-law shown willingness to allow the complainant for cohabitation. But she was not taken to the matrimonial home by her husband on the some pretext. If these circumstances are taken into consideration in its entirety, reflects that the ingredients of the offence of cruelty would not be attracted to these applicants. The allegations nurtured on behalf of respondent No. 2 appears vague, ambiguous and not based on well foundation to prove charges against these applicants No. 2 and 3. There would not be fruitful purpose to allow the continuation of proceedings against applicants No. 2 and 3. It would be an abuse of process of law and dissipate precious time of court of law. Hence, in view of attending circumstances, on record, we are of the opinion that

the FIR – complaint as well as subsequent proceeding instituted upon the FIR bearing crime No. 0181 of 2016 registered with Paithan Police Station deserves to be quashed to the extent of applicants No. 2 and 3. In the result, we proceed to pass following order.

(i) The application is partly allowed in terms of prayer clause “b” to the extent of applicants, namely, (2) Shashikalabai Bhikan Hire and (3) Nandabai Shashikant Khese.

(ii) The FIR bearing Crime No. 0181 of 2016 registered with Paithan Police Station for the offence punishable under sections 377, 498A, 323, 504 and 506 read with section 34 of the Indian Penal Code and subsequent proceedings based upon crime No. 0181 of 2016 to the extent of applicants, namely, (2) Shashikalabai Bhikan Hire and (3) Nandabai Shashikant Khese stands quashed and set aside.

(iii) Rule is made absolute only to the extent of applicant Nos. 2 and 3. No order as to costs.

10. Accordingly the application stands disposed of.

Sd/-
[K. K. SONAWANE, J.]

Sd/-
[S.S. SHINDE, J.]