

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1307 OF 2015

Bharat Vasant Shinde and Ors.

.....Applicants

V/s.

1. Mahadevi Deepak Gadivadd (Pujari)
and anr.

.....Respondents

* * * * *

Mr. Sanjay Kulkarni, Advocate for the applicants.

Mr. V.V. Purwant a/w. Mr. Akshay P. Shinde, Advocate for
respondent no.1.

Mr. Y.Y. Dabke, APP for State.

CORAM :- SMT. R.P. SONDURBALDOTA, J.

DATED :- 15th FEBRUARY, 2017.

P.C. :-

1). This application seeks quashing of the Regular Criminal Case No. 313 of 2012 pending in the Court of Chief Judicial Magistrate, Thane arising out of chargesheet No.I-116/2012 from FIR No.I-43/2012 registered with Thane Nagar Police Station, Thane for the offences punishable under Sections 498A, 420, 406, 495 read with Section 34 Indian Penal Code. Respondent no. 1 is the complainant-wife. Applicant no.1 is a friend of husband of respondent no.1. He is original accused no.A-2. Applicants no. 2 to 7 are the family members of applicant no.1. They are original

accused nos. A-6 to A-9, B-2 and B-3 respectively.

2). The facts alleged in the complaint filed by respondent no.1 who is a Police Constable are peculiar. It is alleged that on 30th November, 2010, marriage alliance/proposal of original accused no. 1, Deepak Krishna Gadivadd was brought by applicant no.1 who is his close friend. At that time applicant no.1 and his family members i.e. applicants no.2 to 7 represented to her and her family that accused no.1 does not have any relatives and that the applicants herein had looked after him and brought him up. They had stated that the father of accused no.1 at the time of his death has asked the family of the applicants to look after and bring him up. However, after the marriage, respondent no.1 realised that her husband not only had relatives i.e. mother, grand-mother, sister, brother and sister-in-law but also he was married earlier to another woman by name, Sangeeta. His marriage with Sangeeta is subsisting and there are proceedings pending in Courts filed by Sangeeta. It is further alleged that, the husband thereafter started harassing respondent no.1 over demand of money. She had from time to time made the payments. In the month of April, 2011 at the instance of her husband, she had handed over a sum of Rs.1,50,000/- alongwith gold ornaments weighing 7 tolas to her husband and applicant no.1 for the purpose of purchasing a house. Later, she realised that no house was purchased and the applicants were lying. Respondent no.1, at the relevant time was pregnant. She alleges that, her husband and applicant no.1 started pressurizing her to have an abortion in view of the proceedings pending between the husband and Sangeetha. Since respondent no.1 refused to undergo

abortion, the husband started harassing her by not keeping any contact with her. The father of respondent no.1, would then visit the husband as well as applicant no.1. On such visits, he was insulted and threatened that respondent no.1 would be thrown out of the house, if the demands for money were not satisfied. When respondent no.1 could no more take the situation, she, on 15th March, 2012 filed the complaint.

3). Mr. Kulkarni, the learned Advocate appearing for the applicants, submits that, none of the applicants being family members of respondent no.1, could have been roped in, in the complaint filed for the offence punishable under Section 498A. He argues that, suggesting the name of accused no.1 for marriage and informing respondent no.1 and her family that, he is of good character, can certainly be not held against the applicants. Further, they cannot be concerned with the personal relations of accused no.1 with his family. He submits that, respondent no.1 being a police constable has infact misused her position, as well as, the process of law by filing the complaint against the applicants. He relies upon the observations of the Apex Court in its decision in the case of **Geeta Mehrotra and Another V/s. State of Uttar Pradesh and Another, reported in (2012) 10 Supreme Court Cases page 741** that the provision of Section 498A is being misused generally by roping in not just the husband but also other relatives of the husband.

4). Considering the facts of the complaint, the statement recorded and the material on record, it cannot be said that there is

no material on record to proceed against the applicant. Not just applicant no.1 but against all the other applicants, who are family members of applicant no.1, there are specific allegations of misrepresentation as regards the status of the husband of respondent no.1. As regards the decision cited, the same does not apply to the facts and circumstances of the case which are completely different. Besides, there are specific allegations made against them. In the circumstances, the application is dismissed. Mr. Kulkarni, requests for continuation of the stay. The request is rejected.

(SMT. R.P. SONDURBALDOTA, J)