

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 84 OF 2013

- 1) Vishal s/o Ambadas Deshmukh,
Age 32 years, Occupation Labour, R/o
Kaulkhed Khetanagar Akola
Tq. Dist. Akola.
- 2) Smt. Jyoti Sharad Deshmukh,
Age 55 years, Occupation Service,
R/o Khitannagar Dist. Akola.
- 3) Bandu @ Pramod s/o Gulabrao Deshmukh,
Age 55 years, Occupation Service,
R/o Gayatri Nagar, Akola
Tq. Dist. Akola.
- 4) Kailash s/o Gulabrao Deshmukh,
Age 51 years, Occupation Service,
R/o Shindi Camp Akola
Tq. dist. Akola.
- 5) Manda w/o Pramod Deshmukh,
Age 48 years, Occupation Service,
R/o as above.
- 6) Minna w/o Kailash Deshmukh,
Age 48 years, Occupation Housewife,
R/o as above.
- 7) Jay Bandu Deshmukh,
Age 18 years, Occupation Education,
R/o Gayatrinagar Tq. Dist. Akola.
- 8) Pappu Bandu Deshmukh,
Age 21 years, Occupation Education,
R/o Gayatrinagar Tq. Dist. Akola.
- 9) Saw. Jaya Ranjeet Deshmukh,
Age 30 years, Occupation Service,
R/o Murtizapur Dist. Akola.

- 10) Vidhya Gulabrao Deshmukh,
Age 42 years, Occupation Service,
R/o Pensionpura, Gorakshan Road
Tq. Dist. Akola.
- 11) Smt. Swati Rajkumar Chavan,
Age 48 years, Occupation Service,
R/o Pulgaon Devli Dist. Wardha.
- 12) Dattarao s/o Narayanrao Deshmukh,
Age 68 years, occupation Nil,
R/o Kandli Tq. Digras
Dist. Yawatmal.

...Applicants

Versus

- 1) The State of Maharashtra
Through the officers in charge of Police
Station Sengaon Dist. Hingoli.
- 2) Sandhya w/o Vishal Deshmukh,
Age 30 years, Occupation Housewife,
R/o Sengaon Dist. Hingoli.

...Respondents

Mr. K. D. Jadav, Advocate for applicants.

Mrs. D. S. Jape, Addl. Public Prosecutor, for respondent No.1 /
State.

Mr. S. S. Deshmukh, Advocate for respondent No.2.

**CORAM : T. V. NALAWADE &
SMT.VIBHA KANKANWADI. JJ.**

DATE : 08-10-2018.

ORAL JUDGMENT : (Per SMT. VIBHA KANKANWADI, J.)

1. At the outset, learned Advocate for the applicants seeks
permission to withdraw the application to the extent of applicant
no.1.

2. Permission granted. The application stands disposed of as withdrawn to the extent of applicant no.1.

3. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

4. Present application has been filed by original accused persons invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure in order to quash the First Information Report vide Crime No. 77 of 2012, registered with Sengaon Police Station, Dist. Hingoli, for the offences punishable under Section 498-A, 323 read with 34 of the Indian Penal Code.

5. Respondent No.2 got married to applicant No.1 in 2006 at Sengaon, Dist. Hingoli. Applicant No.1 is the husband of respondent No.2, applicants No.2 is Maternal Aunt, No. 3 and 4 are Maternal Uncle of applicant No. 1. Applicants No. 5 and 6 are the wives of applicants No. 3 and 4 respectively. Applicants No. 7 and 8 are the sons of applicant No. 3. Applicant No. 9 is the married sister of applicant No. 1. Applicant No. 10 and 11 are the maternal aunts of applicant No. 1. Applicant No. 12 is the paternal uncle of applicant No. 1.

6. Respondent No.2 – informant has contended that, at the time of marriage her father had spent amount of Rs.2,25,000/-. After

marriage she was treated properly by the applicants for some days. She has son Yash out of the wedlock. He was aged 5 at the time of FIR. Thereafter all the applicants started harassing her with common intention. They used to ridicule her on domestic reason. They used to say that her father has not given fridge, sofa-set, washing machine at the time of marriage. They asked her to bring amount of Rs.4 lakhs for purchasing flat. They used to assault her. Therefore, she had come to her parents' house for sometime. Her parents had given understanding to applicants. Her brother came on 02-08-2012 on the occasion of Rakhi Pournima. At that time all the applicants asked her as to why she has not brought the amount of Rs.4 lakhs. Her husband took all the gold ornaments from her person and she was driven out of the house with her brother. They were told that unless the said amount is given, she will not be taken for cohabitation. Therefore, she has lodged the report.

7. The applicants have contended that, the contents of the FIR are false. It is alleged that in fact, informant used to say applicant No. 1 that he is blackish and not handsome. Informant had left the matrimonial house on her own accord on 27-12-2006. She had given first complaint on 22-04-2008 and then on 16-09-2008. The allegations in the same are totally different. Applicant No. 2 has filed many complaints against respondent No. 2 as informant is a quarrelsum lady. The efforts of mediation have failed. Informant is

adamant. Informant want to grab the house of applicant No. 2 as she is issue-less. Applicant No. 1 has ultimately filed divorce proceeding against respondent No. 2. She has avoided to take summons and in order to give counter-blast, this report is lodged. All the applicants are residing separately from each other. Applicants No. 2 to 6 and 9 to 11 are Government Servant and therefore reside at their place of posting. Sengaoon Police ought not to have exercised jurisdiction as the allegations in the FIR state that entire acts have happened in Akola District. Details of the events have not been given and they have been kept as vague as possible. Therefore, they have prayed for quashment of the proceeding.

8. Heard learned Advocate Mr. K. D. Jadhav appearing on behalf of applicants, learned Addl. Public Prosecutor Mrs. D. S. Jape and learned Advocate Mr. S. S. Deshmukh, appearing on behalf of respondent No.2. All of them have made submissions vehemently in support of their respective contentions. When it was pointed out to the learned advocate for the applicants that, this Court is not inclined to grant any relief to applicant No.1, he prayed for withdrawal of the application as against him.

9. The application was considered only for the allegations against the applicants Nos. 2 to 12. Perusal of FIR shows that there are no specific role has been attributed against them in respect of offence

under Section 498-A of the Indian Penal Code. Almost all the allegations about ill-treatment are against the husband. It is alleged that all the other applicants had common intention with applicant No. 1. Applicants No. 2 to 12 are the maternal relatives of husband or related from father's side. They are admittedly not residing in the same house, where applicant No. 1 and respondent No. 2 used to reside. If at all there would have been a demand it would have been mainly by the husband. The perusal of the entire FIR would show that all of them had made the demand in chorus which is not possible. Nothing was demanded by applicants No. 2 to 12 for themselves as per the allegations in the FIR itself. Moreover applicants No. 2 to 12 have produced on record their address proof to show that they are residing separately. So, it appears that, as a routine all the relatives of the husband have been roped. It would be futile exercise to ask applicants No. 2 to 12 to face the trial with such kind of evidence. We do not want to deal with the point of jurisdiction here and it is left to be raised before appropriate forum. It is also to be noted from the documents produced on record that there was dispute between respondent no. 2 and applicant No. 2. Applicant No. 2 had lodged reports against informant contending that she is insisting that applicant No. 2 should give her house to informant. These complaints are made since prior to FIR. Therefore, possibility of false implication can not be ruled out. Under such

circumstance relief is required to be granted to the applicants No. 2 to 12 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) Application to the extent of applicant No.1 is hereby disposed of as withdrawn.
- 2) Application of applicants No. 2 to 12 is hereby allowed.
- 3) Relief is granted in terms of prayer clause "B" to the applicants No. 2 to 12.
- 4) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.