

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

Criminal Application No. 0204 of 2018

District : Aurangabad

1. Amol s/o. Radhakishan Salve,
Age : 32 years,
Occupation : Private Job,
R/o. Bhavsingpura, Bhimnagar,
Cantonment (Chhavni),
Aurangabad.
2. Shashikala w/o. Radhakishan
Salve,
Age : 60 years,
Occupation : Household,
R/o. As above.
3. Saroj w/o. Sachin Sarode,
Age : 40 years,
Occupation : Household,
R/o. 18/5A, Health Camp,
Pandhav Nagar, Wadarwadi,
Pune - 16.
4. Shubham s/o. Sachin Sarode,
Age : 21 years,
Occupation : Education,
R/o. As above.

.. Applicants

versus

1. The State of Maharashtra,
Through Police Inspector,
Peth Beed Police Station,
Beed,
Taluka & District Beed.
2. Pallavi w/o. Amol Salve,
Age : 27 years,
Occupation : Nil,
R/o. Bhavsingpura,
Bhimnagar,

... Contd.

Cantonment (Chhavni),
Aurangabad,
Taluka & District Aurangabad,
at present,
R/o. Nalvannidi Road,
Near New Water Tank,
Peth Beed,
Taluka & District Beed.

.. Respondents.

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Mr. Amol R. Gaikwad, Advocate, for the applicants.

*Mr. M.M. Nerlikar, Additional Public Prosecutor,
for respondent no.01.*

Mr. Harish C. Puse, Advocate, for respondent no.02.

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**CORAM : T.V. NALWADE &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 23RD AUGUST 2018

JUDGMENT (Per Smt. Vibha Kankanwadi, J.) :

Heard learned Advocate Mr. A.R. Gaikwad for the applicants. Heard learned Additional Public Prosecutor M.M. Nerlikar for respondent no.01. Also heard learned Advocate Mr. H.C. Puse for respondent no.02.

02. At the request of the learned Advocate for the applicants, leave to amend granted, so as to add the relief of quashing the proceedings before the trial court consequent upon filing of charge-sheet. Amendment be carried out forthwith.

03. Rule. Rule made returnable forthwith. By consent, heard finally.

04. Present application has been filed by the original accused persons invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973, for quashing and setting aside the first information report vide Crime No. 0467/2017, registered with Peth Beed Police Station, Taluka & District Beed, for offences punishable under Sections 498A, 323, 504, 506, read with Section 34 of the Indian Penal Code, and also the entire proceedings bearing Regular Criminal Case No. 0129 of 2018, pending before learned Chief Judicial Magistrate, Beed.

05. Before turning to the disputed facts, admitted facts are noted. Respondent no.02 got married with applicant no.01 on 26.05.2013 at Aurangabad as per Hindu rites. They have two children. Applicant no.01 is working as Manager with HDFC Bank at Aurangabad.

06. Respondent no.02 - informant has contended in her first information report, that after marriage, she was treated properly for about 2 - 3 years by the accused persons. Accused persons started demanding amount of Rs. 2,00,000/- from her parents, in order to purchase *Safari* vehicle in 2016. Her father gave

amount of Rs. 2,00,000/-. However, thereafter she asked the accused persons to return the said amount of Rs. 2,00,000/- and, therefore, accused persons started harassment to her mentally as well as physically. Thereafter, again there was a demand of Rs. 5,00,000/- by the accused persons for construction of house. She was harassed mentally and physically when her father failed to comply with the demand. She was assaulted and driven out of the house on 08.04.2017. Therefore, she called her father and informed him about the incident. Her father told accused, that he has already given amount of Rs. 2,00,000/-. At that time, accused persons abused and manhandled her father. The informant went back to her father's place at Beed and thereafter lodged a complaint application with the office of Superintendent of Police, Beed, on 10.04.2017. No compromise took place and, therefore, she lodged the report.

07. The applicants have contended that respondent no.02 herself is not willing to reside with the applicants. In fact, she never cohabited peacefully with applicant no.01. All the allegations in the FIR have been denied specifically. It is stated, that unnecessarily the married sister and her son who are residing at Pune have been roped. When respondent no.02 did not resume cohabitation, he had issued legal notice to her, but there was no positive reply. They are having two sons. However, one is in the custody of the applicant no.01 and another is with the

respondent no.02. Ultimately, applicant no.01 has filed divorce petition, but it was much prior to the lodging of the FIR. When respondent no.02 and her father had come to attend the Family Court at Aurangabad, on 16.10.2017, at that time, father of the respondent no.02 had assaulted applicant no.01 in the court premises and the wife had abused him. Complaint to that effect has been lodged by him with the police. It is stated, that in the FIR, vague and omnibus statements have been made. The contents in the FIR are false and imaginary and, therefore, such FIR deserves to be quashed and set aside.

08. It has been submitted on behalf of the applicants, that all the family members have been roped unnecessarily. Attempts were made by the applicant no.01 to bring back respondent no.02 for cohabitation. However, she has not responded and, therefore, he has filed petition for divorce. He was assaulted in the premises of the court on the date of the petition in the Family Court and, therefore, he had lodged the report. The contents of the FIR do not disclose that the informant was harassed physically or mentally. No specific incidence has been given. Applicant nos.03 and 04 are residents of Pune. Even the mother is old who could not have assaulted or physically harassed respondent no.02.

09. Respondent nos.01 and 02 have submitted, that the evidence has been collected to support the

contentions of the informant. Case is not made out to quash the FIR at the threshold.

10. It is to be noted that after due investigation, charge-sheet has also been filed. The contents of the FIR have been supported by the witnesses especially, the father of the informant. She has stated about demand of Rs. 2,00,000/- for purchase of vehicle in 2016 and thereupon her father had fulfilled that demand. The dispute appears to have been started after the informant had allegedly demanded the said amount back. But then, it is stated that there was further demand of Rs. 5,00,000/- for the construction of house. Applicant nos.01 and 02 are residing together under one roof and, therefore, FIR as well as proceedings cannot be thrown at the threshold against them. However, as regards applicant nos.03 and 04 are concerned, applicant no.03 is the married sister of applicant no.01 and applicant no.04 is the son of applicant no.03. As against them, there is only omnibus statement. When they are admittedly residing at Pune since beginning i.e. prior to the marriage between applicant no.01 and respondent no.02, asking them to face the trial, would amount to injustice. Case is made out as against them, for quashing of FIR as well as the entire proceedings.

11. Hence, the following order :-

(a) The application is partly allowed.

(b) The FIR bearing Crime No. 0467/2017, registered with Peth Beed Police Station, Taluka & District Beed, for offences punishable under Sections 498A, 323, 504, 506, read with Section 34 of the Indian Penal Code, to the extent of applicant nos.03 and 04 herein i.e. original accused nos.03 and 04, namely, Saroj w/o. Sachin Sarode and Shubham s/o. Sachin Sarode, respectively, is quashed and set aside. So also, consequential proceedings bearing Regular Criminal Case No. 129 of 2018, pending before Chief Judicial Magistrate, Beed, to the extent of applicant nos.03 and 04 i.e. original accused nos.03 and 04 are hereby quashed and set aside.

(c) Application to the extent of applicant nos.01 and 02 i.e. original accused nos.01 and 02, namely, Amol s/o. Radhakishan Salve and Shashikala w/o. Radhakishan Salve, respectively, is hereby rejected.

(d) Rule made absolute in the above terms.

(Smt. Vibha Kankanwadi)
JUDGE

(T.V. Nalawade)
JUDGE

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puranik / CRIAPPLN204.18

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Puranik
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by Bhagwan
Govindrao
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2018.09.03
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