

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

CRIMINAL APPLICATION NO. 205 OF 2018

1. Hafiz s/o Ambiya Khan Pathan,
Age: 35 years, Occu: Business.
2. Sharifabee w/o Ambiya Khan Pathan,
Age: 72 years, Occu: Household.
3. Ambiya Khan Maheboob Khan Pathan,
Age: 77 years, Occu: Nil,

All R/o. Hedgewar Chowk, Mukhed,
Tq. Mukhed, Dist. Nanded.
4. Atiq s/o Ambiya Khan Pathan,
Age: 33 years, Occu: Service as
Primary Teacher at Ambora Jahangir,
Tq. Mantha, Dist. Jalna.
R/o Watur, Jalna Road, Watur,
Tq. Partur, Dist. Jalna.
5. Irfan s/o Ambiya Khan Pathan,
Age: 29 years, Occu: Business,
R/o. Hedgewar Chowk, Mukhed,
Tq. Mukhed, Dist. Nanded.
6. Mohasin s/o Ambiya Khan Pathan,
Age: 26 years, Occu: Business,
R/o. Hedgewar Chowk, Mukhed,
Tq. Mukhed, Dist. Nanded.
7. Maifiza d/o Ambiya Khan Pathan,
Age: 31 years, Occu: Household,
R/o. as above.
8. Mohd. Gous Jalalsab,
Age: 46 years, Occu: Service as
Primary Teacher at Mugaon,
Center Gadga, Tq. Naigaon (Kh)

Dist. Nanded, R/o. Hedgewar Chowk,
Mukhed, Dist. Nanded.

... APPLICANTS
(Orig. Accused)

VERSUS

1. The State of Maharashtra,
Through Police Station,
Degloor, Dist. Nanded.
2. Asma Begum w/o Hafiz Pathan,
Age: 26 years, Occu: Household,
Presently R/o. Bhayegaon Road,
Degloor, Tq. Degloor, Dist. Nanded.

... RESPONDENTS
(Resp. No.2 Orig. Complainant)

...

Mr. Upendra B. Bilolikar, Advocate for Applicants.
Mr. S. B. Pulkundwar, APP for Respondent No.1./State.
Mr. Hamzakhan I. Pathan, Advocate for Respondent No.2.

...

**CORAM : T. V. NALAWADE &
K. L. WADANE, JJ.**

DATE : 27th June, 2018.

JUDGMENT: (Per T. V. Nalawade, J.)

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

2 The proceeding is filed under Section 482 of the Code of
Criminal Procedure for relief of quashing of FIR No.602 of 2017 dated

23rd December, 2017, registered with Degloor Police Station, District Nanded, for the offences punishable under Section 498-A, 323 and 504 read with 34 of the Indian Penal Code.

3 The crime is registered on the basis of report given by Respondent No.2 Asma Begum. Applicant No.1 is the husband of Respondent No.2, Applicant No.2 is the mother of Applicant No.1, Applicant No.3 is the father of Applicant No.1, Applicant Nos.4 to 6 are the brothers of Applicant No.1, Applicant No.7 is the married sister of Applicant No.1, but it was submitted that she is living with her parents as her husband has deserted her, and Applicant No.8 is the maternal uncle of Applicant No.1. Applicant No.8 is serving as a primary teacher at other station and he is not living with Applicant Nos.1 to 3. Applicant No.4 is also in service at other station and for service he is living there.

4 In the FIR, Respondent No.2 has made allegations that after marriage, which took place on 5th May, 2011, she cohabited with her husband for about 4 years at the native place of the husband, which is Mukhed, District Nanded and during cohabitation, she gave birth to a son. It is her case that after the birth of son, all the

Applicants started asking her to bring household articles like fridge, gas, inverter from her parents and on that count, they started giving harassment to her. It is her case that due to harassment, she was brought to the parents house and she stayed at parent's house for about two years. It is her case that the case was filed in the Court of Mukhed by her and after that there was settlement and she returned to the matrimonial house.

5 It is the case of Respondent No.2 that after 6 months of resumption of cohabitation, the Applicants again started giving ill-treatment to her and they started asking her to bring Rs.5,00,000/- and also household articles. It is her case that she again returned to her parents house on 11th November, 2017 due to ill-treatment. It is her case that on 15th November, 2017 at about 08:30 am, all the Applicants came to the house of her parents and they picked up quarrel. They asked her to see that demand was made and they assaulted her. It is her case that they gave threat of divorce to her. It is her contention that she made attempt to settle the dispute, but the husband was not ready to listen. It is her case that, when she was deserted, she was pregnant. When argument was advanced, she had

delivered an issue. Thus, there are two minor issues with her. Due to these circumstances, this Court had tried to see that the parties settle the dispute, but the husband was not ready to accept Respondent No.2 back in the matrimonial house.

6 The aforesaid circumstances and particularly withdrawal of maintenance proceeding, which was filed by the wife and also the circumstance of withdrawal of proceeding filed under the Domestic Violence Act show that the wife is ready to return to maternal house, but the husband is not ready to accept her. There is no plausible explanation of the husband on this circumstance. Admittedly, the husband is living with his parents at Mukhed. Applicant Nos.5 and 6 are also living with their parents at Mukhed. However, allegations show that Applicant No.7, who is married sister, is required to live with the parents only due to her fate, her husband has deserted her. Applicant No.4 is living at other place for service and Applicant No.8 is also living at other place as he is employed at other station.

7 Allegations as they are not specific as against Applicant No.4, 7 and 8. Due to the nature of allegations made against them, which are very vague, this Court holds that there is a possibility of

exaggeration of things and they are added only to harass the husband and other persons. Nothing can be achieved if these Applicants are asked to face the trial in view of the aforesaid circumstances. Such exercise will be the abuse of process of law. In the result, the following order is passed:

ORDER

- I. The application of Applicant No.4 Atiq, Applicant No.7 Maifiza and Applicant No.8 Mohd. Gouse is allowed.
- II. Relief is granted to them in terms of prayer clause (B).
- III. The application of remaining Applicants is dismissed.
- IV. Rule made absolute in those terms.

[K. L. WADANE, J.]

[T. V. NALAWADE, J.]