

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

30 CRIMINAL APPLICATION NO.603 OF 2014

- 1) Alamgir Papabhai Pathan,
Age 48 years, Occ.: Nil,
- 2) Sainaj Alamgir Pathan,
Age 42 years, Occ.:
- 3) Sabir Alamgir Pathan,
Age 21 years, Occ.:
- 4) Firoz Bismillaha Pathan,
Age 28 years, Occ.:
- 5) Shahed Bismillaha Pathan,
Age 26 years, Occ.:
- 6) Adil Bismillaha Pathan, Age 24
years, Occ.:

All R/o.: Manikdaundi, Tq.
Pathardi, Dist. Ahmednagar.

...**Applicants**

Versus

- 1) The State of Maharashtra,
Through Belwadndi Police
Station, Tq. Shrigonda, Dist.
Ahmednagar.
- 2) Sugraabee Alamgir Pathan, Age
50 years, Occ.Household,
R/o.:Belwandi,Tq. Shrigonda,
Dist. Ahmednagar.

...**Respondents**

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Advocate for Applicants : Santosh S. Jadhavar
APP for Respondent No.1/State : Mr. R.V. Dasalkar
Advocate for Respondent No.2 : Mr. N.V. Gaware

...

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

DATE : 23RD JULY, 2018

JUDGMENT : (PER K.L. WADANE J.)

1. Rules. Rule made returnable forthwith. With the consent of the parties, the application is taken up for final hearing.

2. The present applicants have challenged the first information report, lodged by respondent No.2 bearing Crime No.I-75/2014 registered against them with Belwandi Police Station, Tq. Shrigonda for the offences punishable under Sections 498(A), 323, 324, 504 read with 34 of the Indian Penal Code.

3. We have heard the argument of Mr. Jadhwar, the learned counsel for the applicants, who on instructions seeks leave to withdraw the application of applicant no.1, Mr. Dasalkar, the learned APP for respondent No.1/State and Mr.Gaware, the learned counsel for respondent No.2 and also gone through the allegations made in the first information report. It is alleged by respondent No.2 that she married with applicant No.1 prior to 30

years. Initially, she was treated nicely for some period and during that period, respondent No.2 begotten two sons. However, thereafter, applicant No.1 started ill-treatment to respondent No.2 and he was beating and abusing to respondent No.2 on the ground that, no dowry was paid to him in the marriage. Whenever, respondent No.2 visits her parents, at that time she used to disclose this fact to her parents. It is further stated in the FIR that after the marriage, she was treated nicely for about 10 years and thereafter, she was driven away from the house. Therefore, respondent No.2 went to the parents' house along with her two sons namely, Raju and Samir. Subsequently, respondent No.2 came to know that applicant No.1 married with one Sainaj and said Sainaj begotten one son namely, Sahir. Thereafter, respondent No.2 filed a petition before the Judicial Magistrate First Class at Shrigonda for maintenance. After the decision of the maintenance proceeding, applicant No.1 informed respondent No.2 to come back for cohabitation. Accordingly, she went to reside with applicants on 12.07.2013 and she resided till 28.07.2013. On 27.07.2013, the applicants drove her out of the house by saying that respondent

No.2 should bring the money from her parents and during that period, the applicants have ill-treated, abused and beaten her.

4. On perusal of the first information report it appears that there are specific allegations against applicant No.1 about the illtreatment causing to the complainant from time to time. It further appears from the record that subsequently, applicant No.1 got married with another lady Sainaj. On the second instance, respondent No.2 appears to be resided hardly at her matrimonial house for about 8 days and it is further alleged that during that 8 days, the applicants have ill-treated her on account of illegal demand of money for purchasing motor-cycle.

5. So looking to the allegations as against applicant Nos.2 to 6, it appears that those are absolutely vague. Furthermore, it appears that applicant No.2 Sainaj is the second wife of applicant No.1, applicant No.3 appears to be step-son and applicant Nos.4 and 5 are appears to be nephews of applicant No.1. Thus, it is seen that the allegations as against applicant Nos.2 to 6 are absolutely vague and on such vague allegations, prosecution cannot be

allowed to be continued, because nothing can be achieved after conclusion of the trial. Therefore, the application for applicant Nos.2 to 6 is deserves to be allowed, accordingly it is allowed.

6. Relief is granted to applicants No.2 to 6 in terms of prayer Clause 'B'.

7. The application of applicant No.1 is disposed of as withdrawn.

8. Rule is made absolute in aforesaid terms.

9. The Criminal Application is disposed of.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]