

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

**CRIMINAL APPLICATION NO. 424 OF 2018
WITH
CRIMINAL APPLICATION NO. 1595/2018
IN
CRIMINAL APPLICATION NO. 424 OF 2018**

1. Asimpasha Shaikh Kahajamiya **... Applicants**
Age 32 years, Occu:Business **(Orig.Accused)**
R/o Azad Nagar, Parli Vaijinath
Taluka Parli Dist. Beed.
2. Shaikh Khajamiya s/o Shaikh
Ibrahim Age 67 years, Occu:
Prisoner, R/o Azad Nagar, Parli
Vaijinath, Dist. Beed.
3. Shaikh Rajiyabagum w/o Shaikh
Khajamiya, Age 63 years,
Occu: Household, R/o Azad Nagar,
Taluka Parli, Dist. Beed.
4. Shaikh Azam s/o Khajamiya Attar
Age 37 years, Occu: Service
R/o Nilanga Ways, Azad Chowk,
Ausa, Tq. Ausa, Dist. Latur
5. Parveenbagum w/o Shaikh Azam
Attar, Occu:31 years, Occu:
Household, R/o Nilanga Ways,
Azad Chowk, Ausa, Tq. Ausa,
Dist. Latur
6. Shaikh Shamshoddin s/o Shaikh
Ibrahim Attar @ Shaikh Shamshu
s/o Shaikh Ibrahim attar
R/o Jalna Road, Beed,
Taluka and Dist. Beed.
7. Rabiyaabagum w/o Shaikh
Samshoddin @ Shaikh Rabiyaabi
w/o Shaikh Shamshu

Age 45 years, Occu: Household
R/o Jalna Road, Beed,
Taluka and Dist. Beed.

8. Shaikh Shafik s/o Shaikh Chotumiya, Age 40 years, Occu: Service, R/o Dada Colony, Kailash Nagar, Aurangabad
9. Shaikh Asma w/o Shaikh Shafik Attar, Age 34 years, Occu: Service, R/o Dada Colony, Kailash Nagar, Aurangabad

VERSUS

1. The State of Maharashtra
2. Najiya Begum Shaikh w/o Asim ... Respondents
Pasha Shaikh Attar
Age 26 years, Occu: Household
Presently residing at Fule
Nagar, Majalgaon,
Taluka Majalgaon Dist. Beed.

Mr. Mr. Shamim R. Shaikh, Advocate for the applicants
Mr. R. V. Dasalkar, APP for the respondent State.
Mr. B. R. Sable, Advocate for respondent No.2

CORAM : T. V. NALWADE AND
K. L. WADANE, JJ.

DATE: : 14th June, 2018

JUDGMENT (Per K. L. Wadane, J.) :

1. Rule. Rule made returnable forthwith. With the consent of the parties, the application is taken up for final hearing.
2. Criminal Application No. 1595/2018 is filed for

amendment in the main proceeding so as to challenge the Charge-Sheet No.115/2018 in RCC No.37/2018 and to add prayers accordingly. For the reasons stated in the application, the application is allowed. Amendment to be carried out forth with.

3. The main application is filed under section 482 of the Code of Criminal Procedure for relief of quashing of first information report bearing Crime No. 385/2017 registered with City Police Station, Majalgaon Taluka Beed for the offence punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code. By way of amendment, the applicants have also challenged Charge-Sheet No.115/2018 in RCC No.37/2018 the prayed for quashing the same.

4. Respondent No.2/original complainant lodged first information report against the present applicants on 13.12.2017 alleging that she married with applicant No.1 Asimpasha on 09.05.2008. She was treated well by applicant Nos. 1 to 3 initially for three months. Thereafter they started insulting the complainant on her physical structure, etc. Thereafter, the applicants/accused have asked the complainant to bring Rs. 5 lakhs from her parents for opening furniture shop

and in pursuance to the demand, applicant Nos. 1 to 3 started illtreating the complainant, they used to beat her and harass her physically and mentally. It is alleged that applicant Nos. 4 to 9 were instigating applicant Nos.1 to 3, due to which they were again harassing the complainant mentally and physically and made her to starve. It is alleged that the complainant bring the incidents of illtreatment to the notice of her parents whenever she used to go her parents house. Her parents were trying to convince the applicants asking them to treat the complainant well, but on the complainant returned to matrimonial home, applicants were asking the complainant as to whether she brought Rs.5 lakh, and if not, don't enter the house. In the meantime, her father-in-law assaulted her, persisting the demand and on 12.05.2017 she was thrown out of house and gave threat to kill her. On that day complainant made representation to the Women and Child Counselor Counter in the office of S.P. Beed but in vain. With these allegations, offence came to be registered against the applicants accused for the offences punishable under sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

5. Heard Mr. Shamim R. Shaikh, learned counsel for the applicants, Mr. R. V. Dasalkar, APP for the respondent State and Mr. B. R. Sable, learned counsel for respondent No.2.

6. Learned counsel for the applicant submitted that he is not pressing the application for applicant Nos. 1 to 3 i.e. husband, father-in-law, mother-in-law of the complainant, respectively.

7. From the record, it appears that Applicant No.4 is brother of applicant No.1 and applicant No.5 is wife of applicant No.4 and they are residing separately at Nilanga Ways, AUSA. Applicant No.6 is brother of applicant No.2 and applicant No.7 is his wife and they are residing separately at Beed. Applicant No.9 is married sister of applicant No.1 and applicant No. 8 is her husband and they are residing at Aurangabad.

8. On perusal of the first information report, it appears that there is no material particular quoting any specific incident of visit or about ill-treatment or harassment against applicant Nos. 4 to 9 so as to attract ingredients of section 498-A of the Indian

Penal Code. Allegations against applicant Nos. 4 to 9 in the first information report are vague and general in nature. No specific act or overt-act is attributed to them. Secondly, even if the allegations in the first information report are taken at its face value, there is no specific instance or material particular which would strengthen the allegation of the complainant that there was harassment or ill-treatment at the hands of applicant Nos. 4 to 9 as contemplated under the provisions of Section 498-A I.P.C. so as to even make out a prima facie case against them.

9. In view of the above, we find considerable force in the argument of Mr. Shaikh, learned counsel for quashing the criminal proceedings against applicant Nos. 4 to 9. Hence following order:

O R D E R

i. Application of applicant Nos. 4- Shaikh Azam, Applicant No.5 Parveenbagum, Applicant No.6 Shaikh Shamsoddin @ Shamshu, applicant No.7 Shaikh Rabiyaabagum @ Rabiyaabi, Applicant No.8 Shaikh Shafik, and applicant No.9 Shaikh Asma is hereby allowed.

ii. First information report bearing Crime No. 385/2017

registered with City Police Station, Majalgaon
Taluka Beed and Charge-Sheet No.115/2018 in RCC
No.37/2018 are hereby quashed and set aside to the
extent of Applicant Nos. 4 to 9.

iii. Application of Applicant Nos. 1 to 3 is disposed
of as not pressed.

iv. Rule is made partly absolute in the above terms.

v. The applications are disposed of.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC