

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 458 OF 2018

- 1) Atul Devidas Rathod,
Age 30 years, Occupation Service,
R/o Jahagirdarwadi Tq. Dist. Osmanabad.
- 2) Devidas s/o Puna Rathod,
Age 61 years, Occupation Retired/
Pensioner,
R/o as above.
- 3) Tarabai @ Taramati w/o Devidas Rathod,
Age 56 years, Occupation Household,
R/o as above.
- 4) Amol s/o Devidas Rathod,
Age 34 years, Occupation Service,
Shikshak Colony, Osmanabad
Tq. Dist. Osmanabad.
- 5) Anita @ Sarika Santram Chavan,
Age 38 years, Occupation Service,
As above.
- 6) Santram Hari Chavan,
Age 47 years, Occupation Service,
R/o As above.

...Applicants

Versus

- 1) The State of Maharashtra
Through the Police Station,
Osmanabad (Rural) Dist.
Osmanabad.
- 2) Sonali w/o Atul Rathod,
Age 19 years, Occupation Household,
R/o Jahagirdarwadi Tq. Dist.
Osmanabad.

...Respondents

Mr. G. J. Kore, Advocate for applicants.
Mrs. D. S. Jape, Addl. Public Prosecutor, for respondent No.1 /
State.
Mr. M. P. Kolpe, Advocate for respondent No.2.

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

DATE : 03-10-2018.

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 applicants No.1 to 3.
2. Permission granted. The application stands disposed of as withdrawn to the extent of applicants No.1 to 3.
3. Rule. Rule made returnable forthwith. By consent, heard finally.
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. 34 of 2018, registered with Osmanabad Rural Police Station, Osmanabad, for the offences punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.
5. Respondent No.2 got married to applicant No.1 in 2017. Applicant No.1 is the husband of respondent No.2, applicants No.2

and 3 are the parents of applicant No.1, and applicants No.4 is brother of applicant No.1 and applicant No.5 is sister of applicant No.1. Applicant No.6 is the husband of applicant No.5.

6. Respondent No.2 – informant has contended that, her father had given dowry of Rs.4,00,000/-, 7 Tolas of gold at the time of marriage. Her father had incurred expenditure of Rs.2-3 lakhs on the marriage. After marriage she went to her matrimonial house to cohabit with her husband. She was treated properly for about 2 months. Thereafter, all the applicants started giving ill-treatment to her on the count that her father has not given Motorcycle, as it was promised at the time of marriage. Her parents had then given amount of Rs.70,000/- to applicant No. 1 in presence of witnesses. Thereafter she was treated properly for one month. Thereafter they started demanding Rs.2 lakhs for purchasing plot. She was abused and assaulted. She was driven out of the house. She had therefore approached Women Cell, Osmanabad. None of the applicants came for settling the dispute as they had no intention to take her back for cohabitation. Therefore, she has lodged the report.

7. The applicants have contended that, the FIR is false and frivolous. Applicants No. 2, 3 and 4 are residing separately from applicant No. 1. Applicants No. 4 and 5 got married much prior to the marriage between applicant No. 1 and respondent No. 2. There

is delay in lodging FIR. Applicant No. 1 has filed petition for divorce before learned Civil Judge Senior Division, Osmanabad on 20-12-2017. The FIR is nothing but a counter-blast to the said petition. 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. Respondent No. 2 has filed affidavit-in-reply. She has also filed certain documents. The affidavit-in-reply and notice reply contain same contentions. Hence, they are not reproduced here.

9. Heard learned Advocate Mr. G. J. Kore appearing on behalf of applicants, learned Addl. Public Prosecutor Mrs. D. S. Jape and learned Advocate Mr. M. P. Kolpe, appearing on behalf of respondent No.2. When it was pointed out to the learned advocate for the applicants that, this Court is not inclined to grant any relief to applicants No.1 to 3, he prayed for withdrawal of the application as against them.

10. The application was considered only for the allegations against the married sister-in-law applicant No.5 and her husband applicant No.6. No specific role has been attributed against them in respect of offence under Section 498-A of the Indian Penal Code. If at all there would have been a demand it would have been mainly by the husband and the father and mother-in-law. The perusal of the

entire FIR would show that all of them had made the demand in chorus which is not possible when elders are there. Nothing was demanded by applicants No.5 and 6 for themselves as per the allegations in the FIR itself. Admittedly, applicants No.5 and 6 got married much prior to the marriage between applicant No. 1 and respondent No. 2 and 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 them to face trial. Under such circumstance relief is required to be granted to the applicants No.5 and 6 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) Application of applicants No.4, 5 and 6 is hereby allowed.
- 2) Relief is granted in terms of prayer Clause "B" to the applicants No.4, 5 and 6 only.
- 3) Application to the extent of applicants No.1 to 3 is hereby disposed of as withdrawn.
- 4) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE