

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

CRIMINAL APPLICATION NO. 500 OF 2018

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| <p>1. Pankaj s/o Vinod Deshpande,
Age 38 years, Occu: Self employed</p> <p>2. Vinod s/o Venkatesh Deshpande,
Age 65 years, Occu: Retired</p> <p>3. Sau. Sharmista w/o Vinod Deshpande
Age 62 years, Occu: Household
Applicant No.1 to 3 are r/o
Parwant Nagar, Taroda (Kh)
Nanded, Tq. & Dist. Nanded</p> <p>4. Padmaja w/o Amit Shesh
Age 36 years: Occu: Household
R/o Lonere Batu, Tq. Mangaon
Dist. Raigad.</p> <p>5. Prajakta w/o Sagar Pande,
Age 34 years, Occu: Household
R/o Gan Pavilion, S.No.54, H.Np.32,
Ghorpadigaon, Pune.</p> | <p>...</p> | <p>Applicants
(Orig.Accused)</p> |
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VERSUS

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| <p>1. The State of Maharashtra
Through Bhagyanagar Police Station,
Nanded, Dist. Nanded</p> <p>2. Minakshi w/o Pankaj deshpande
Age 33 years, Occu: Household
R/o C/o S. G.Shevalkar,
Shivneri Nagar, Sangvi, Nanded
Tq. Dist. Nanded.</p> | <p>...</p> | <p>Respondents</p> |
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Mr. D. M. Shinde, Advocate for the applicants
Mr. M. M. Nerlikar, APP APP for the respondent State.
Mr. S. R. Choukidar Advocate for respondent No.2

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

DATE: : 4th July, 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. Learned counsel for the applicant seeks leave to amend the proceeding so as to challenge the charge-sheet in RCC No.195/2018 pending before the learned J.M.F.C. Nanded and to add prayers accordingly. Leave granted. Amendment to be carried out immediately.

3. The application is filed under section 482 of the Code of Criminal Procedure for relief of quashing of first information report bearing Crime No. 348/2017 registered against the applicants with Bhagyanagar Police Station, Nanded Parbhani for the offence punishable under Section 498-A, 34 and 109 of the Indian Penal Code. By way of amendment, the applicants have challenged the consequent charge-sheet in RCC No.195/2018 pending before the J.M.F.C. Nanded prayed for quashing the same.

4. Respondent No.2/original complainant lodged first information report against the present applicants alleging that she was married to applicant No. 1 Pankaj Deshpande and started living with her husband at her matrimonial home. She was treated well by applicants initially for some days. It is alleged that the applicants started, insulting and ill-treating the complainant on trivial issues. The applicants asked the complainant to bring more money in addition to what is given in marriage. It alleged that her husband used to beat her with kick and fist blows for one or the other reason. It is alleged that her sister-in-laws were abusing the complainant and used to instigate her husband. It is further alleged that complainant was driven out of the house and since then she is residing at her maternal place. With these allegations, offence as referred above came to be registered against the applicants.

5. Heard Shinde, learned for the applicants, Mr. Nerlikar, learned APP for the respondent State and Choukidar, learned counsel for respondent No.2.

6. On perusal of the contents of the first information report it appears that specific allegation of demand of money, ill-treatment and harassment and assault with kick and fist blow are made against

applicant Nos. 1 to 3 who are residing jointly at Nanded. Applicant No.1 is husband of the complainant and applicant Nos. 2 and 3 are father-in-law and mother-in-law of the complainant respectively. There are specific allegations against them that they have harassed the complainant and were beating her in pursuance of demand of money. Instances of harassment are given in the F.I.R. In view of that we are not inclined to exercise discretion in respect of applicant Nos. 1 to 3.

7. From the record, it appears that Applicant Nos.4 and 5 are married sisters of the husband of the complainant and they are residing at their respective matrimonial homes. Applicant No.4 Padmaja Amit Shesh is residing at Lonere Tq. Mangaon Dist. Raigad with her husband and applicant No. 5 Prajakta w/o Sagar Pande is residing with her husband at Pune. It appears that all family members of the accused husband are roped in the offence. Allegation against applicant Nos. 4 and 5 is that time and again they were instigating her husband against the complainant and were abusing the complainant. It appears that applicants No. 4 and 5 are residing separately and there was no occasion for them to harass the complainant or instigate her husband on the grounds stated in the FIR. They are married and have no direct

concern with the family affairs of the accused husband and complainant.

8. On perusal of the first information report, it appears that there is no material particular quoting any specific incident of visit or instance of alleged ill treatment or instigation against applicant Nos. 4 and 5. Allegations against applicant Nos. 4 and 5 in the first information report are vague and general in nature. No specific act or overt-act is attributed to them. On its face, the complaint does not constitute any offence against applicant Nos. 4 and 5. Nothing can be achieved if criminal proceeding is allowed to be continued against these applicants.

9. In view of the above, in order to prevent the abuse of process of law, we find that discretion needs to be exercised in respect of Applicant Nos. 4 and 5. Hence following order:

ORDER

- i. Application of applicant Nos. 4- Padmaja and applicant No.5 Prajakta is hereby allowed.
- ii. First information report bearing Crime No. 348/2017 registered

with Bhagyanagar Police Station and consequent and Charge-Sheet and RCC No.195/218 pending before the J.M.F.C. Nanded for the offence punishable under Section 498-A, 34 and 109 of the Indian Penal Code are hereby quashed and set aside to the extent of Applicant Nos. 4 and 5.

iii. Application of Applicant Nos. 1 to 3 is rejected

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

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC