

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 509 OF 2018

- 1) Fahim Shaikh s/o Shaikh Azimoddin,
Age 42 years, occupation Business,
- 2) Moeen Shaikh s/o Shaikh Azimoddin,
Age 38 years, Occupation Business,
- 3) Shabanabi @ Sabeeha Parween w/o
Shaikh Fahim,
Age 40 years, occupation household,
- 4) Nargisbi w/o Shaikh Mohin,
Age 34 years, Occupation Household,

All r/o – Jam Mohalla, Bhusawal,
Taluka Bhusawal, Dist. Jalgaon.

...Applicants

Versus

- 1) The State of Maharashtra.
- 2) Shamimbi w/o Shaikh Azimoddin,
Age 50 years, Occupation Household,
C/o – Shaikh Nazir Shaikh Hamid,
R/o Near Shah Awaliya Mosque,
Tamba Pura, Jalgaon
Dist. Jalgaon.

...Respondents

Mr. Naseem R. Shaikh, Advocate for applicants.

Mr. A. A. Jagatkar, Addl. Public Prosecutor, for respondent
No.1 / State.

Mr. Shaikh Mohammad Naseer A., Advocate for respondent
No.2.

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

DATE : 14-12-2018.

ORAL JUDGMENT : (Per SMT. VIBHA KANKANWADI, J.)

1. Rule. Rule made returnable forthwith. By consent, heard both sides for final disposal.
2. 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. 23 of 2018, registered with M.I.D.C. Police Station, Jalgoan Dist. Jalgaon, for the offences punishable under Section 498-A, 323, 504, 506 of the Indian Penal Code.
3. Respondent No.2 got married with one Shaikh Ajimoddin Shaikh Rariuddin in the year 2002. From the first wife Shaikh Ajimoddin has two sons i.e. applicants No.1 and 2 and applicants No.3 and 4 are the wives of applicants No.1 and 2. Applicant has begotten one son and one daughter from the wedlock with Shaikh Ajmoddin Shaikh Rariuddin.
4. Respondent No.2-informant has contended that, after marriage her husband cohabited well for 14 years. Thereafter since one year prior to the lodging of the complaint, her husband started

raising suspicion over her character. On that count he used to assault her, threaten her. She had informed the ill-treatment to Police Station from time to time but there was no change in the behaviour of her husband Shaikh Ajimoddin. Therefore, she along with her two children went to Jalgaon Tambapura at her brother's house. Her husband, his two sons and their wives i.e. applicants No.1 to 4 visited the house of her brother at Tambapura Jalgaon, abused her, threatened her and demanded Rs.50,000/- for purchase of rickshaw, therefore she has lodged the report.

5. The applicants have contended that, it is a false and concocted story. It is afterthought allegations with only intention to harass them. Details of the events have not been given and they have been kept as vague as possible. No specific role is attributed to applicants No. 1 to 4. Applicants No.1 and 2 are the children of first wife of husband of respondent No.2 and applicants No.3 and 4 are wives of applicants No.1 and 2. First wife of Shaikh Ajimoddin died in the year 1999 and he performed second marriage with informant – respondent no.2 on 29-12-2002. After the second marriage Shaikh Ajimoddin started residing with respondent No.2 separately in the rented premises. For the above reasons applicants have prayed for quashment of the First Information Report.

6. Heard learned Advocate Mr. Naseem R. Shaikh appearing on

behalf of applicants, learned Addl. Public Prosecutor Mr. A. A. Jagatkar and learned Advocate Mr. Shaikh Mohammad Naseer A., appearing on behalf of respondent No.2.

7. The applicants No.1 and 2 are the sons of the first wife of husband of informant – respondent. Applicants No.3 and 4 are the wives of applicants No.1 and 2. They would have considered respondent No.2 as mother. Further it appears that, they are residing separately from respondent No.2 and her husband. It appears that, respondent No.2 left house after her husband allegedly started raising suspicion over her character. Just to bring the applicants in picture, it is alleged that, they had also gone with father to the house of brother of respondent No.2 and then made demand to her. It is impossible to purchase a rickshaw in only Rs.50,000/-. It is not made clear what the husband was doing earlier and why he wanted to start business on rickshaw after such advanced age. No specific role has been attributed against them. It appears that, as a routine all the relatives of the husband have been roped. Under such circumstance relief is required to be granted to the applicants No.1 to 4 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) Application is allowed.
- 2) Relief is granted in terms of prayer Clause "A" in respect of applicants No.1 to 4 only.
- 3) Rule made absolute in those terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.