

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1197 OF 2014

- 1) Sayyad Iejjaj s/o Sayyad Jaffar,
Age 53 years, Occupation Labour,
R/o Baba Chowk, Edaga Road, Tq.
Dist. Beed.
- 2) Sayyad Shada Begum w/o Iejjaj,
Age 50 years, Occupatiofn Household,
R/o as above.
- 3) Sohel Sayyad w/o Sayyad Yejjaj,
Age 27 years, Occupation Labour,
R/o as above.
- 4) Sayyad Mujamil s/o S. Iejjaj,
Age 26 years, Occupation Labour,
R/o as above.
- 5) Sayyad Mujahid s/o S. Iejjaj,
Age 20 years, occupation Labour,
R/o as above.
- 6) Sayyad Nashir s/o Sayyad Abbas,
Age 36 years, Occupation Labour,
R/o as above.
- 7) Sayyad Emtiyaj s/o S. Ekbal,
Age 32 years, Occupation Labour,
3.18.160, Bhaldaspura, Balbhim Nagar,
Nagar Lonarpura Tq. Dist. Beed.
- 8) Sayyad Fayyaj s/o S. Ekbal,
Age 28 years, Occupation Labour,
3.18.160, Bhaldaspura, Balbhim Nagar,
Nagar Lonarpura Tq. Dist. Beed.
- 9) Shah Navaj Sayyad s/o Ekbal Sayyad,
Age 25 years, Occupation Labour,

3.18.160, Bhaldaspura, Balbhim Nagar,
Nagar Lonarpura Tq. Dist. Beed.

10) Sayyad Gajala Begam w/o S. Emtiyaj,
Age 26 years, Occupation Household,
R/o as above.

11) Sayyad Shahin Begum w/o Sayyad
Emtiyaj,
Age 26 years, Occupation Household,
R/o as above.

...Applicants

Versus

1) The State of Maharashtra.

2) Sayyad Najiya w/o Sayyad Mukhtar,
Age 29 years, Occupation Household,
R/o Nariman Nagar, Near Samartha
Mandir, Tq. Dist. Jalna.

...Respondents

Mr. V. P. Kadam, Advocate for applicants.

Mr. R. V. Dasalkar, Addl. Public Prosecutor, for respondent
No.1 / State.

Mr. Shaikh Mujtaba Gulam Mustafa, Advocate for respondent
No.2.

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

DATE : 21-08-2018.

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

1. Present application has been filed by the original accused persons who are the relatives of the husband for quashment of the charge-sheet filed with the learned Judicial Magistrate First Class,

Jalna in Regular Criminal Case No. 72 of 2014 for the offences punishable under Section 498-A, 323, 504 read with 34 of the Indian Penal Code.

2. The applicants have come with a case that, applicant No.1 is the brother of father-in-law of respondent No.2, applicant No.2 is his wife, applicants No.3 to 5 and 7 to 9 are the cousin brother-in-laws of respondent No.2, applicant No.6 is the sister of father-in-law of respondent No.2, applicants No.10 and 11 are the cousin sister-in-laws of the respondent No.2. They cannot be said to be the family members of the husband of respondent No.2. Marriage between respondent No.2 and one Sayyad Mukthar was performed in 2007. All the applicants are residing separately from Sayyad Mukthar. Merely because they are related to him, they have been roped and even the charge-sheet is filed against them. Hence, they have prayed for the quashing of the proceedings.

3. Respondent No.2 has filed affidavit-in-reply reiterating the contents of the FIR and prayed that the application should be dismissed.

4. Heard Mr. Mr. V. P. Kadam, Advocate for applicants, Mr. R. V. Dasalkar, Addl. Public Prosecutor, for respondent No.1 / State, and Mr. Shaikh Mujtaba Gulam Mustafa, Advocate for respondent No.2. Perused the copy of the charge-sheet.

5. In order to cut short we would like to say that, both the parties have submitted their arguments in support of their reply contentions.

6. Perusal of the FIR would show that, the respondent No.2 - informant stated that, after her marriage on 06-05-2007, she was treated properly for about one year by her in-laws. She has stated that, she has two sons aged 05 and 02. She also states that, after one year of marriage, the people from her matrimonial home started saying that, she should bring amount of Rs.10 lakhs for opening a Farsan Shop and to purchase vehicle. Thereafter, she has named all the accused persons including the present applicants and it is stated that all of them started harassing her. She was kept starved. When her parents tried to persuade, there was no change. Thus it is to be noted that, in the FIR only omnibus statement has been made. It is not stated that, all the applicants were residing with her husband. The statements of the witnesses would also show that except omnibus statement that these persons harassed her, there is nothing.

7. The learned advocate appearing for the applicants has rightly relied on the observations by Hon'ble Apex Court in *Kailash Chandra Agrawal and Another Versus State of Uttar Pradesh and Others*, reported in (2014) 16 Supreme Court Cases 551, wherein it has

been held that,

"Court has to be careful in summoning distant relatives without there being specific material. Only the husband, his parents or at best close family members may be expected to demand dowry or to harass the wife but not distant relations, unless there is tangible material to support allegations made against such distant relations. Court is not expected to go into veracity of rival versions but where on the face of it, criminal proceedings are abuse of Court's process, quashing jurisdiction can be exercised."

8. Thus it is to be noted that, as against the present applicants taking into consideration their relationship, though they may be resident of the same town, when no overt act is attributed, only on the basis of omnibus statement the present applicants cannot be asked to face the trial. Case is made out for exercising powers under Section 482 of Code of Criminal Procedure. Hence following order.

ORDER

- 1) Application is hereby allowed.
- 2) Relief is granted in terms of prayer Clause 'B'.
- 3) Rule made absolute in above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.