

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

Criminal Application No.954 of 2010

- 1) Sayeeda Mehrunnisa Bahauddin,
Age 70 years, Occu: Household,
R/o 577/1, "Apale Ghar" Society,
Kharadi, Pune.
- 2) Sayyad Abdul Raheman Bahauddin
Kadri,
Age 34 years, Occupation Watchman,
R/o As above.
- 3) Sayeeda Parvin Abdul Raheman Kadri,
Age 28 years, Occu: Household,
R/o As above.
- 4) Sayyad Gohar (Abdulla) Bahauddin
Kadri,
Age 32 years, Occupation: Driver,
R/o Satara,
Taluka & District Aurangabad.
- 5) Sayyad Imran Bahauddin Kadri,
Age 27 years, Occupation Labour,
R/o Ahmedpur, District Latur. .. **Applicants.**

Versus

- 1) The State of Maharashtra,
Through Police Station, Neknoor,
Taluka & District Beed.
- 2) Syed Aftabbi w/o Sayed Kismat,
Age Major, Occupation Household,
Yelamghat,
Taluka & District Beed. .. **Respondents.**

Shri. K.J. Suryawanshi, Advocate, for applicants.

Shri. S.J. Salgare, Additional Public Prosecutor, for respondent No.1.

**Coram: T.V. NALAWADE &
K.L. WADANE, JJ.**

Date: 1 AUGUST 2018

JUDGMENT (Per T.V. Nalawade, J.):

1) The proceeding is filed under section 482 of the Code of Criminal Procedure for the relief of quashing of F.I.R.No.139/2009 registered with Neknoor Police Station District Beed for offences punishable under sections 498-A, 304-B, 306, 34 etc. of the Indian Penal Code. Both the sides are heard. Papers of investigation were made available.

2) The crime is registered on the basis of report given by mother of the deceased. The deceased was given in marriage to Sayyad Jabiulla. Applicant No.1 is mother of the husband of the deceased, Applicant No.2 is brother of the husband of the deceased. Applicant No.3 is the wife of applicant No.2 and applicant Nos.4 and 5 are brothers of the husband of the deceased.

3) The deceased was given in marriage on 25-5-2007 and the incident took place on 14-12-2009 and death took place due to 100% burns. The F.I.R. was given on 16-12-2009. The crime is registered for the aforesaid offences due to aforesaid circumstances.

4) There are specific allegations against the applicants that in the marriage amount of Rs.50,000 was given as dowry and other household articles were given. Allegations are made that after the birth of the daughter to the deceased, ill-treatment was started by all the accused. Allegations are made that all the applicants were asking the deceased to bring Rs. 2 lakh from her father and on that count they were harassing the deceased and they were instigating the husband to give beating. Allegations are made that parents of the deceased had tried to convince the applicants to behave well but they were not ready to listen. Allegation is made that on 25-11-2009 the deceased was driven out of matrimonial house as aforesaid demand was not met with. It is contended that on 27-11-2009 the deceased was reached to the matrimonial house and promise was given that some

arrangement would be made within 15 days. It is contended that on 13-12-2009 the deceased was again driven out of matrimonial house and on that occasion also by giving promise that some arrangement will be made, the deceased was sent back to matrimonial house. The incident took place within 2 days of the last incident of cruelty.

5) It is the contention of the mother that due to untimely death of the deceased she was not feeling well and after final rites were completed, .F.I.R. was given on 16-12-2009.

6) As the death took place within 7 years of the marriage and there are allegations of demand of dowry and the death is unnatural, the provisions of sections 113A and 134B of the Evidence Act can be used. As there is such presumption, burden is on the accused to show the other probabilities. Learned counsel for the applicants submitted that some of the relatives of the husband are residents of other place and not of the place where the deceased was cohabiting with the husband. This defence

cannot be considered at least in a proceeding like the present one. It will be a matter of appreciation of evidence and the material can be brought on record of the trial Court during trial. In view of the aforesaid specific allegations and the statements of the witnesses, this Court holds that it is not possible to grant relief. In the result, the application is dismissed. Rule is discharged. Interim relief is vacated.

Sd/-
(K.L. WADANE, J.)

Sd/-
(T.V. NALAWADE, J.)

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