

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

Criminal Application No. 01142 of 2017

District : Hingoli

1. Gautam s/o. Omprakash Sharma,
Age : 38 years,
Occupation : Private Job.

2. Sita w/o. Omprakash Sharma,
Age : 60 years,
Occupation : Household.

3. Omprakash Mangilalji Sharma,
Age : 64 years,
Occupation : Pensioner.

4. Gaurav s/o. Omprakash Sharma,
Age : 34 years,
Occupation : Business.

5. Ujwala d/o. Omprakash Sharma,
Age : 32 years,
Occupation : Household,

Petitioners no.01 to 05
R/o. Radharaman Colony,
Manawar, Taluka Manawar,
Dist. Dhar (M.P.).

6. Rani @ Komal w/o. Vijay Sharma,
Age : 36 years,
Occupation : Household,
R/o. Meera Road, Mumbai.

.. Applicants
(Original
accused)

versus

1. The State of Maharashtra,
Through Hingoli Police Station.

2. Shikha w/o. Gautam Sharma,
Age : 49 years,
Occupation : Agriculture,
R/o. Shivaji Nagar, Hingoli,
Taluka & Dist. Hingoli.

.. Respondents
(No.02 -
Original
complainant)

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Mr. Shailesh S. Chapalgaonkar, Advocate, for the applicants.

Mr. R.V. Dasalkar, Additional Public Prosecutor, for respondent no.01.

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

DATE : 19TH NOVEMBER 2018

JUDGMENT [Per Smt. Vibha Kankanwadi, J.] :

01. Rule. Rule made returnable forthwith. By consent, heard finally.

02. 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, 1973, in order to quash the Charge-sheet No. 120 of 2016 and consequential proceedings in R. C. C. No. 7 of 2017 filed before Judicial Magistrate First Class, Hingoli, District Hingoli, for the offences punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

03. Respondent No.2 got married to applicant No.1 on 16-02-2010. 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 and 6 are the married sisters of applicant No.1.

04. Respondent No.2 – informant has contended that, after the engagement ceremony, accused persons demanded amount of Rs.15 lakhs for purchasing house and office. Her father had given amount of Rs.10 lakhs in cash and deposited Rs.5 lakhs in the bank account of applicant No. 3. It was represented that applicants have no house of their own. Informant's father gave that amount taking into consideration her future. Amount of Rs.2 lakhs was spent on marriage. It was the second marriage of applicant No. 1. Expensive articles were given, so also gold ornaments to informant and her husband as well as cash of Rs.51,000/- and a Nokia mobile worth Rs.22,000/- to applicant No. 1. Gold chain and ring was given to applicants No. 2 and 3. She was treated properly only for few days. Applicant No. 5 had come for delivery and since then she has not gone back to her matrimonial home. She used to give wrong information about informant to applicants No. 1 and 2. Thereupon they used to pick up quarrels with informant on trifle grounds. They were asking her to do all the household work. They were not allowing her to talk with her parents and relatives on phone. They were not allowing her to watch T. V. or go out. Her husband used to abuse her by making allegations and then used to assault her. When she had informed the said fact to her mother, her mother gave advice to wait for some days to pass. Applicants had demanded

amount of Rs.10 lakhs to purchase plot in the name of applicant No. 1 in 2012. When she refused to give, at that time her husband had abused her under the influence of liquor. She came to know about his habit of consumption of liquor at that time. In order to avoid further harassment to her, her mother gave amount of Rs.5 lakhs to her husband and brother-in-law and deposited Rs.5 lakhs in the account of applicant No.4. In the meantime, she begotten daughter on 17.04.2013. She was taken to Hingoli by her mother. Since then, none of the applicants had gone to make inquiry about her. Her husband took her and daughter to Manawar on 19.04.2015 and he went to Maleshiya. In his absence, other applicants used to curse her on the point that she has begotten daughter. She used to be harassed by all of them. Her husband scolded her after his return from Maleshiya. She was beaten by saying that she is saying false things against applicants. Her brother took her to Hingoli. Her husband went to Hingoli about two months prior to FIR and asked her to come to matrimonial home. When she told that they harass her, at that time applicant No. 1 assaulted her and threatened that unless she brings amount of Rs. 10 lakhs, she will not be taken for cohabitation. She waited for applicants to come and take her, but in vain. Hence, she gave application to Women Cell. When notice was given to applicants, they gave threats. Therefore, she has lodged the report.

05. The applicants have contended that, there is

delay in lodging FIR. The allegations in the FIR are vague and baseless. Applicants No. 2 and 3 are suffering from various diseases and therefore, taking medical treatment. They have not ill-treated informant. There are no specific allegations against applicants No. 4 and 5. Informant was insisting that applicant No. 1 should come to reside at Hingoli, to which he was not ready. It has led to quarrels between them. Applicant No. 6 resides at Mira Road, Mumbai. She was not residing with other applicants. However, she has been implicated. Therefore, they have prayed for quashment of the proceedings.

06. Heard learned Advocate Mr. Shailesh S. Chapalgaonkar appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. R. V. Dasalkar for respondent no.01. 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 5, he prayed for withdrawal of the application as against them.

07. The application was considered only for the allegations against the married sister-in-law applicant No. 6. Though applicant No. 5 is also married sister-in-law, yet, she is residing with applicants No. 1 to 4, under one roof. Hence, application is considered for applicant No. 6 only. No specific role has been attributed against her 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 applicant No. 6 for herself as per the allegations in the FIR itself. Applicant No. 6 is admittedly residing at her matrimonial home, Mira Road, Mumbai. She could not have gone each time to Manawar in Madhaya Pradesh. As aforesaid, it is alleged that she was acting with other applicants. When no specific role is attributed to her, it would be futile exercise to ask her to face trial. Her casual visits to house of applicants can not be said to be with an intention to commit offence. 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 applicant No. 6 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure.

08. Hence, following order.

(a) The application is partly allowed.

(b) The application to the extent of applicants no.01 to 05 is disposed of as withdrawn.

(c) The application to the extent of applicant no.06, namely, Rani @ Komal w/o. Vijay Sharma is

allowed. Relief is granted to her, in terms of prayer clause "B". So also, proceedings in Regular Criminal Case No. 07 of 2017, pending before Judicial Magistrate (F.C.), Hingoli, for offences punishable under Section 323, 498A, 504, 506 read with Section 34 of the Indian Penal Code, to the extent of above named applicant no.06, are quashed and set aside.

(d) Rule made absolute in the above terms.

(Smt. Vibha Kankanwadi)
JUDGE

(T.V. Nalawade)
JUDGE

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