

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

CRIMINAL APPLICATION NO. 1452 OF 2014

1) Vinayak Haribhau Tupe,
Age 56 years, Occ. Service,
R/o. Mahalunge (Ingale) Chakan,
Tq. Khed (Rajgurunagar) Dist. Pune.

2) Sarang Sonaba Kiwale, Age 26
years, Occ. Student, R/o. Mahalunge
(Ingale) Chakan, Tq. Khed
(Rajgurunagar) Dist. Pune.

... **Applicants**
(Ori. accused No. 5 to 4)

VERSUS

1. The State of Maharashtra.
Through Police Station Shrigonda,
Tq. Shrigonda, Dist. Ahmednagar.

2. Dr. Sau. Vidya w/o Satish Borude,
Age 29 years, Occ. Business,
R/o. C/o. Kailas Ahilaji Bhalsing,
Plot No. 372, Sector No. 18,
Shivtej Nagar, Chikhali Pradhikaran,
Pimpri Chinchwad, Dist. Pune.

... **Respondents.**
(respondent No. 2 is original
complainant)

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Advocate for Applicants : Mr. Nangare P.R.
APP for respondent No. 1/State : Mr. P.V. Diggikar.
Advocate for respondent No. 2 : Mr. N.C. Garud.

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

DATE : 23rd JULY, 2018.

JUDGMENT (PER K.L. WADANE, J)

1. Rule. Rule made returnable forthwith. With the consent of the parties, this application is taken up for final hearing.

2. This is an application filed the applicants/original accused No. 5 and 4 under the provisions of section 482 of the Code of Criminal Procedure for relief of setting aside and quashing the proceeding bearing RTC No. 91/2014 pending before Chief Judicial Magistrate, Ahmednagar. arising out of first information report Crime No. I-78/2013 registered with Shrigonda Police Station, District Ahmednagar, for the offences punishable under section 498A, 323, 504, 506 read with section 34 of the Indian Penal Code.

3. The brief facts of the case may be stated as follows:

(i) The applicant No. 1 (original accused No. 5) is the maternal uncle of original accused No. 1 Satish (husband of complainant), applicant No. 2 (original accused No. 4) is the maternal cousin of accused No. 1.

(ii) Respondent No. 2/original complainant lodged complaint by alleging that, her marriage performed with accused No. 1 Dr. Satish on 6.5.2010. After marriage accused No. 1 to 3 treated her well for one and

half month and thereafter sent the complainant and accused No. 1 at Pune for doing business/job. The complainant and accused No. 1 started residing at Chikhali in the house of complainant's father. It is further alleged by the complainant that her father gave them a house at Shivtej Nagar, where they were residing. At that time accused No. 1 by suspecting on the character of complainant started beating and abusing her. Accused No. 2 and 3 demanded Rs. 3 lakh to the parents of complainant for making hospital. It is alleged by the complainant that on 30.04.2011, the applicants and other accused persons drove her out of the house. However, after giving understanding by the maternal uncle and parents of the complainant to the accused persons, complainant again started to residing with the accused No. 1. But again accused No. 1 to 3 demanded Rs. 20 lakh for hospital and on that count they assaulted, illtreated the complainant. Accused No. 1 also gave threats and abuses on phone to the complainant and her parents. With these allegations, offence came to be registered against the applicants and other accused persons for the offences punishable under section 498-A, 323, 504, 506 read with section 34 of the Indian Penal Code.

4. We have heard the arguments of Mr. Nangare P.R., learned counsel for the applicants, Mrs. Diggikar, learned APP for the

respondent No.1/State and Mr. Garud, learned counsel for respondent No. 2.

5. On perusal of the contents of the first information report it appears that specific allegations of illtreatment, demand of money and harassment are made against husband/original accused No. 1 and accused No. 2 and 3. The allegations against the applicants are vague and general in nature. On perusal of record it appears that the applicant No. 1 is maternal uncle of accused No. 1 Satish and the applicant No. 2 is the cousin brother (maternal) of accused No. 1. Both the applicants are residing at different places. They are distant relatives of the accused No. 1. Therefore, prima-facie it appears that, the applicants have no concern with the family matters of the complainant and accused No. 1. It is alleged that the applicants and other accused persons drove out the complainant out of the house. However, from the record it appears that the applicants are not residing with the family of accused No. 1. Therefore, prima-facie it appears that there is no force in the allegations of the complainant against the present applicants.

6. On perusal of record it also appears that, earlier also the complainant has filed a complaint against the accused No. 1 and 2 for the offences punishable under section 498A, 323, 504, 506 read with

section 34 of the Indian Penal Code with Shevgaon police station. The allegations in that complaint and present complaint are same but at that time the complainant did not make the applicants as accused. Therefore, it appears that the complainant make vague and general allegations against the applicants.

7. In view of the above and on perusal of the first information report as well as statement of witnesses it also appears that there is no material particular quoting any specific incident of visit or about illtreatment or harassment at the hands of applicants, so as to attract the ingredients of section 498-A of the Indian Penal Code or other offences as alleged by the complainant. The applicants are not residing with the original accused No. 1 and his family. It appears that, the applicants are distant relatives of the accused No.1. Hence to prevent the abuse of process of law, we find that discretion needs to be exercised in respect of applicants No. 1 and 2. Hence, following order:

ORDER

1. Application is allowed.
2. Relief is granted in terms of prayer clause 'B' only to the extent of present applicants. The trial is to proceed against the remaining accused.

8. Criminal Application is disposed of accordingly.
9. Rule is made absolute in the above terms.

(K. L. WADANE, J.)

(T.V.NALAWADE,J.)

mkd/-