

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

Criminal Application No.1180 of 2015

- 1) Shaik Feroz s/o Shaik Isaak,
Age 42 years,
Occupation: Agriculture,
R/o Kiradpura, Rehmaniya Colony,
Aurangabad.
 - 2) Parvin Bi w/o Shaik Feroz,
Age 31 years,
Occupation: Housewife,
R/o Rehmaniya Colony,
Kiradpura, Aurangabad.
 - 3) Shaik Shakil s/o Shaik Gulam Rasul,
Age 45 years,
Occupation: Agriculture,
R/o At village Sanav,
Taluka Gangapur,
District Aurangabad.
 - 4) Rihana Bi w/o Shaik Shakil,
Age 37 years,
Occupation: Housewife,
R/o As above.
 - 5) Shaik Javed S/o Shaik Shakil,
Age 21 years,
Occupation: Agriculture,
R/o As above.
- .. Applicants.**

Versus

- 1) The State of Maharashtra
Through Police Station,
Virgaon, Taluka Vaijapur,
District Aurangabad.

- 2) Rubina w/o Naser Khan Pathan,
Age 27 years,
Occupation: Housewife,
R/o Presently residing at
C/o Amina bi wd/o Shaik Nasir,
At Sanav, Taluka Gangapur,
District Aurangabad.

.. Respondents.

Shri. Nikhil Jaiswal, Advocate, holding for Shri. Vishal S. Gaike, Advocate, for applicants.

Shri. R.V. Dasalkar, Additional Public Prosecutor, for respondent No.1.

Shri. A.S. Bajaj, Advocate, for respondent No.2.

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

Date: 27 JULY 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 R.C.C. No.253/2014 pending in the Court of Judicial Magistrate, First Class, Vaijapur, District Aurangabad for offences punishable under sections 498-A, 323, 504, 506, 34 etc. of Indian Penal Code. Both the sides are heard.

2) The crime is registered on the basis of report given by one Rubina Naser Pathan. She was given in marriage to Naser Pathan as per Muslim rites and she cohabited at Wajargaon with the husband from 20-5-2011. The father of the first informant died about one and half years prior to the date of F.I.R. The F.I.R. came to given on 29-1-2014.

3) After the death of father, name of the first informant was entered in the revenue record of the agricultural land which was standing in the name of father of the first informant. The first informant has made allegation that as she was shown as owner of some portion of the agricultural land, her husband Naser, father of her husband Rafiq Akbar Pathan, mother of her husband Aasim, maternal uncle of her husband Shaik Shakil (applicant No.3), the wife of applicant No.3, Rihana (applicant No.4), son of material uncle of the husband Shaik Javed (applicant No.5) and he is also the son of applicant No.3, a relative of Shaik Feroz (applicant No.1) and the wife of applicant No.1 started asking her to sell her share in the agricultural land and give the sale

proceeds, at least Rs.3 lakh to them for purchasing agricultural land. It is contended that to force this demand they started assaulting her. It is her case that her relatives from parents' side tried to convince the applicants and other accused to behave well but they did not improve their conduct.

4) About one year prior to the date of F.I.R. the first informant had returned to parents' house for delivery and she delivered a female child there. It is contended that even to see the daughter the applicants and other relatives of her husband did not turn up and they insisted that their demand of Rs. Three lakh needs to be met with first. It is contended that the present applicants were teasing the first informant on that count. She gave report on 29-1-2014.

5) The charge sheet is filed against the husband and other seven persons for aforesaid offences. Heirship certificate is produced on record. After the death of father of the first informant the names of his legal representatives came to be entered in the revenue record

and name of applicant No.2 Parvin, name of applicant No.4 Rihana were also entered as legal representative of the deceased and they were shown as daughters of the deceased. It was submitted for the applicants that some civil dispute is started after the death of the father of the first informant and father of the two of the applicants and only to pressurise the applicants the applicants are involved as relatives of the husband by the first informant. It is not disputed that there is such dispute. Copy of the judgment delivered by this Court, learned Single Judge, in Criminal Writ Petition No.307/2015 is produced on record. In that proceeding relief was claimed for quashing of Criminal Misc. Application No.270/2014 which was filed against present applicants under the Protection of Women from Domestic Violence Act, 2005 by present first informant. This court granted the relief by decision dated 7-7-2015 in view of the aforesaid circumstances.

6) Allegations made in the F.I.R. against the present applicants are also very vague in nature. At least two of the applicants are shown as heirs of the deceased father of the first informant and their names are also

entered in the revenue record by making mutation. Due to these circumstances it does not look probable that they were asking the first informant to dispose of her share and to give the sale proceeds to her husband. There is clear probability that due to civil dispute there is false implication. Further there is order of aforesaid nature made in Criminal Writ Petition by learned Single Judge of this Court. In view of these circumstances this Court holds that relief needs to be granted. So, the application is allowed. Relief is granted in terms of prayer clause (C). Rule made absolute in those terms.

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

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

rs1