

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

CRIMINAL APPLICATION NO. 706 OF 2018

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| <p>1. Mahesh s/o Bhika More
Age 38 years, Occu: Pvt. Service
R/o Flat No.404, Saik arked
Opp. Jaihind Bank, Navare Nagar,
Ambarnath, Dist. Thane</p> <p>2. Smt. Shubhangi wd of Bhika More
Age 60 years, Occu: Household</p> <p>3. Dinesh s/o Bhika More
Age 40 years, Occu: Agri.</p> <p>4. Sow. Sangita w/o Dinesh More,
Age 36 yers, Occu: Household
Applicants 2 to 4 r/o Choudhane, Tq.
Satana Dist. Nashik</p> <p>5. Meenabai w/o Anil Jagtap
Age 42 years, Occu: Pvt. Service,
Sahadeo Building, Indira Nagar, Nashik</p> <p>6. Karbhari Shankar Jagdale
Age 42 years, Occu: Service,
R/o Zilla Parishad Marathi School,
Choudhane, Tq. Satana, Dist. Nashik</p> | <p>... Applicants
Original accused.</p> |
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VERSUS

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| <p>1. The State of Maharashtra
Through Mehunbare Police Station,
Tq. Chalisgaon in Crime No.I-62/2017</p> <p>2. Sharda w/o Mahesh More
C/o Nimba Shivram Baviskar
R/o Pilkhod Tq. Chalisgaon,
Dist. Jalgaon.</p> | <p>.. Respondents</p> |
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Mr. S. S. Dambe, Advocate for the applicants
Mr. R. V. Dasalkar, APP for the respondent State.
Mr. R. S. Kulkarni, Advocate for respondent No.2

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

DATE: : 6th August, 2018

JUDGMENT (Per K. L. Wadane, J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, the application is taken up for final hearing.
2. The application is filed under Section 482 of the Code of Criminal Procedure for relief of quashing of the first information report bearing Crime No. I-62/2017, registered with Mehunbare Police Station, Dist. Jalgaon, and criminal case sheet bearing RCC No. 56/2017 pending before the Court of J.M.F.C. at Chalisgaon, Dist. Jalgaon for the offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code.
3. Respondent No.2 Sharda Mahesh More original complainant lodged complaint before the Judicial Magistrate, First Class Chalisgaon. The Judicial Magistrate First Class referred the matter under Section 156(3) of Cr.P.C. for investigation. The complainant has alleged that she was married to Applicant No.1 Mahesh More on 29.10.2015. It was their second marriage. Her father incurred Rs. five lakh in the marriage and golden/silver ornament were given to her in marriage. After marriage she started living with her husband at Ambernath. It is alleged that she was

treated well by the accused/applicants initially six months and thereafter, the accused have started illtreating, torturing, insulting and harassing the complainant. The applicant No.1 asked the complainant to bring rupees five lakh from her parents for the purpose of construction of house and when the complainant shown inability to fulfill the demand, applicant No.1/husband started harassing the complainant mentally and physically. It is alleged that applicant Nos. 2 to 4 were instigating applicant No.1 husband against the complainant and were pursuing the demand. It is alleged that applicant Nos. 5 and 6 were time and again visiting the matrimonial house of the complainant and were taunting and tutoring the complainant and insisting the complainant to bring Rs.5 laksh. It is alleged that when the complainant was pregnant of 2 months and 20 days from the applicant No.1, the applicants have taken her to a private hospital and got her foetus aborted against her will on 19.07.2016. With these allegations, first information report bearing Crime No. I-62/2017 came to be registered with Mehunbare Police Station, Dist. Jalgaon against the applicants/accused persons for the offence referred above.

4. Heard Mr. Dambe, learned counsel for the applicants, Mr. Dasalkar, learned APP for the respondent State and Mr. Kulkarni, learned counsel for respondent No.2/original complainant.

5. During investigation, the Investigating Officer has recorded statements of various witnesses and submitted the charge-sheet. We have perused the statements of witnesses recorded by the investigating officer. Statements of all these witnesses are in line with the contents of the first information report are reproduced in the statements of the witnesses.

6. On perusal of the contents of the first information report it appears that there are allegation of ill-treatment and harassment, cruelty and demand of money made against the applicants. Looking to the nature of allegations, one can understand the allegations against the husband and mother-in-law/applicant No.2. There are specific allegations against applicants No. 1 husband that he has harassed the complainant mentally and physically, made the complainant to abort foetus and was also demanding money from the complainant. Instances of harassment are given in the F.I.R. The complainant was residing with her husband at Ambarnath.

7. The learned counsel for the applicant seeks permission to withdraw the application of applicant Nos. 1 and 2. Permission granted.

8. It appears that all family members and relatives of the applicant No.1 husband appears to have been roped in the offence. Applicant

No.3 is brother and applicant No. 5 is married sister of applicant No.1 husband. Applicant No.4 is wife of applicant No.3 and applicant No.6 is brother-in-law of applicant No.1 husband. It appears that applicant Nos. 3 to 6 are residing separately at their respective places i.e. at Choudhane Tq. Satana and Indiranagar, Nashik. Their Adhar Cards and cards are produced on record to show their residence. There was no occasion for them to harass or torture the complainant on the grounds stated in the FIR. They have no direct concern/nexus with the affairs of the complainant and her husband.

9.6. On perusal of the first information report, it appears that there is no material particular quoting any specific incident about ill-treatment or harassment against applicants 3 to 6 so as to attract ingredients of section 498-A of the Indian Penal Code. Allegations against these applicants in the first information report are vague and general in nature. On its face, the complaint does not constitute any offence against applicants 3 to 6. Nothing can be achieved if criminal proceedings are allowed to be continued against these applicants. Therefore, we found considerable force in the argument of Mr. Dambe learned counsel for the applicants for quashing the F.I.R. to the extent of the present applicant Nos. 3 to 6.

10.7. In view of the above, the applications of applicant Nos. 3 to 6 is allowed.

11. First information report bearing Crime No. I-62/17, registered with Mehunbare Police Station, Dist. Jalgaon and criminal case sheet bearing RCC No. 56/2017 pending before the Court of J.M.F.C. at Chalisgaon, Dist. Jalgaon for the offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code are hereby quashed and set aside to the extent of applicant Nos. 3 to 6.

12. Application of applicant Nos.1 and 2 is disposed of as withdrawn.

13. Rule is made partly absolute in the aforesaid terms.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC