

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

CRIMINAL APPLICATION NO. 758 OF 2018

1. Sandeep Sudhakar Chaudhari, (Applicant No.1 withdraw as
Age: 32 Years, Occu: Private Service, as per Court order dt.4/4/18)
2. Sunanda Sudhakar Chaudhari,
Age: 56 Years, Occu: Service,
3. Sudhakar Narayan Chaudhari,
Age: 64 Years, Occu: Retired,

All R/o. Plot No.38, Gat No.55,
Shiv Colony, Jalgaon, Dist. Jalgaon.
4. Supriya Vishal Patil,
Age: 34 Years, Occu: Household,
5. Vishal Dhandraj Patil,
Age: 37 Years, Occu: Service,

Both R/o. Friedrich-Karl-Strasse
129, 50735, Koln, Germany.
6. Komal Pramod Wadhe,
Age: 42 Years, Occu: Household,
R/o. 1/B, Khandesh Mill Colony,
Ring Road, Jalgaon, Dist. Jalgaon.
7. Vimalbai Ramkrushna Chaudhari,
Age: 79 Years, Occu: Household,
R/o. Plot No.18, Gat No.94/1,
Khote Nagar, Jalgaon, Dist. Jalgaon.
8. Subhash Ramkrushna Chaudhari,
Age: 58 Years, Occu: Service,
R/o. 27/13, Raisen Road, Minal Complex-2,
Govind Garden, Govindpura, Huzur,
Bhopal, (Madhya Pradesh).

9. Satish Ramkrushna Chaudhari,
Age: 58 Years, Occu: Business,
R/o. Plot No.18, Gat No.94/1,
Khote Nagar, Jalgaon, Dist. Jalgaon.
10. Ramrao Laxman Suralkar,
Age: 62 Years, Occu: Retired,
11. Sharda Ramrao Suralkar,
Age: 54 Years, Occu: Household,

No.10 & 11 R/o. Kasliwal Tarangan,
Mumbai Road, Mitmitagav,
Aurangabad, Dist. Aurangabad.

... **APPLICANTS****VERSUS**

1. The State of Maharashtra,
Though its City Police Station,
Bhusawal, Tq. Bhusawal,
Dist. Jalgaon.
2. Purva Sandeep Chaudhari,
Age: 28 Years, Occu: Business,
R/o. C/o. Anil Shrikrishna Chaudhari,
P & T Colony, Jalgaon Road,
Bhusawal, Tq. Bhusawal,
Dist. Bhusawal.

... **RESPONDENTS**

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Mr. Vijay B. Patil, Advocate for Applicants.
Mr. S. J. Salgare, APP for Respondent No.1 / State.
Mrs. Rashmi Kulkarni, Advocate for Respondent No.2.

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

DATE : 03rd July, 2018.

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

. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2 The proceeding is filed under Section 482 of the Code of Criminal Procedure for quashing of FIR No.11 of 2018, registered with City Police Station, Bhusawal, Taluka Bhusawal, District Jalgaon, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code.

3 The crime is registered on the basis of report given by Respondent No.2. Applicant No.1 of the present proceeding is the husband of Respondent No.2, Applicant No.2 is the mother of Applicant No.1, Applicant No.3 is the father of Applicant No.1, Applicant No.4 is a married sister of Applicant No.1, Applicant No.5 is the husband of Applicant No.4, Applicant No.6 is said to be a friend of the husband, Applicant No.7 is said to be a maternal aunt of the husband, Applicant Nos.8 and 9 are said to be the sons of Applicant No.7, Applicant No.11 is the maternal aunt of husband and Applicant No.10 is the husband of Applicant No.11.

4 In FIR, allegations are made that the husband had illicit relations with a lady and due to that, there used to be quarrels between the first informant and her husband. In FIR, she has made allegations that ill-treatment was given to her after two months of the marriage and it was given by all the Applicants. In FIR, it is contended that there was one incident on 23rd November, 2017 and in that incident, even attempt was made on her life. FIR was given on 5th February, 2018.

5 The learned counsel for Applicants produced some record in respect of Applicant No.2, mother of husband of first informant. It shows that she was out of country till 25th November, 2017 and she was not present in India on 23rd November, 2017. In spite of that, allegations are made against her in other record though not in FIR that in the incident dated 23rd November, 2017, she was also involved. However, there are allegations that the husband of first informant was living with his parents and in the present proceeding also, the address of Applicant Nos.1 to 3 is same.

6 The learned counsel for Respondent No.2 submitted that the first informant has grievance that the FIR was not properly recorded by the Police and allegations, which were made by the wife are not mentioned. It was submitted that when the application was given to the grievance redressal cell created in police station, she had made allegations against everybody, but in FIR those allegations are not shown. It was submitted that due to this circumstance, criminal application is filed bearing Criminal Application No.161 of 2018 by the wife in the Court of Judicial Magistrate First Class and she has requested the Judicial Magistrate First Class to add two Sections and some more portion in the FIR.

7 The submissions and record show that Applicant Nos.4 to 11 are not living with the husband of first informant. Applicant Nos.4 and 5 are resident of Germany but allegations are made that they used to give ill-treatment to the first informant. Applicant Nos.6 and 7 are resident of Jalgaon and Applicant No.9 is also resident of Jalgaon. Applicant No.8 is resident of Madhya Pradesh and Applicant Nos.10 and 11 are resident of Aurangabad. Admittedly, they are living separate from the husband of first informant. Vague allegations are

made against them that they were either instigating the husband to give ill-treatment or they were harassing her. Only one incident dated 23rd November, 2017 is specific, but there is a record of aforesaid nature in favour of the mother of husband. Different kinds of allegations are made in respect of that incident at different place by the wife. There is copy of N.C. report in respect of the incident dated 23rd November, 2017 showing that the allegations were made only against the husband and not against his parents. Thus, the wife has made vague allegations against the husband and his relatives and there is record to show that one person named was not present even in India at the relevant time. It will be abuse of process of law if Applicant Nos.4 to 11 are directed to face trial if police file charge-sheet. However, Applicant Nos.2 and 3 are parents of Applicant No.1 and they are living with husband and so it cannot be said that they were not there when on other occasions ill-treatment was given to the first informant. There is no specific allegations as against Applicant No.6, so-called friend of the husband for constituting the offence punishable under Section 498-A of the Indian Penal Code.

some reported case as under:

- a) **Kailas s/o Damodar Pathe and others Vs. State of Maharashtra and another**, reported in, **2015(2) Mh.L.J. (Cri.) 81**,
- b) **Girish and Ors Vs. The State of Maharashtra and Ors**, dated 18th January, 2017, passed by this Court in Criminal Application No.2876 of 2016 (Coram: S. S. Shinde and K. K. Sonawane, JJ.),
- c) **Vikas and Ors Vs. The State of Maharashtra and Ors**, dated 27th January, 2017, passed by this Court in Criminal Application No.5193 of 2016 (Coram: S. S. Shinde and V. K. Jadhav, JJ.),
- d) **Sumersing and Ors Vs. The State of Maharashtra and Ors**, dated 3rd July, 2015, passed by this Court in Criminal Application No.471 of 2014 (Coram: S. S. Shinde and A.I.S. Cheema, JJ.)

9 The facts and circumstances of each and every case are always different. This Court has discussed the relevant facts of present matter. In the result, the following order is passed:

ORDER

- I. The application of Applicant Nos.4 to 11 is allowed. Relief is granted to them in terms of prayer clause (B).
- II. The application of Applicant Nos.2 and 3 namely Sunanda and Sudhakar is dismissed.
- III. Rule made absolute in those terms.

[K. L. WADANE, J.]**[T. V. NALAWADE, J.]***ndm*