

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 927 OF 2018

- 1] Vimal Bapurao Chavan,
Age : 45 years, Occu. Household,
- 2] Bapurao Lala Chavan,
Age : 50 years, Occu. : Agri.,
- 3] Nirmala Shivaji Chavan,
Age : 43 years, Occu. : Household,
- 4] Shivaji Lala Chavan,
Age : 49 years, Occu. : Agri. &
Hotel,
All R/o Chausala, Tq. & Dist. Beed. ...Applicants

Versus

- 1] The State of Maharashtra,
Through Investigation Officer,
Yermala Police Station,
Dist. Osmanabad.
- 2] Shashank Jalindar Pawar,
Age : 49 years, Occu. : Service,
(Police Constable),
R/o Beed, Tq. & Dist. Beed. ...Respondents

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Mr. N. B. Narwade, Advocate for Applicants.

Mr. S. J. Salgare, A. P. P. for Respondent No. 1-
State.

Mr. M. P. Kale, Advocate for Respondent No. 2.

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**CORAM : T. V. NALAWADE &
SMT. VIBHA KANKANWADI, JJ.**
DATE : 10-12-2018.

JUDGMENT : (Per Smt. Vibha Kankanwadi, J.)

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

02. Present application has been filed by the original accused No. 2 to 5 by invoking the inherent powers of this Court under Section 482 of Cr. P. C. to quash and set aside the F. I. R. bearing C. R. No. 07 of 2018 dated 27.1.2018 registered with Yermala Police Station, Dist. Osmanabad for the offences punishable under Sections 302, 498-A read with 34 of I. P. C. and the proceedings of Sessions Case No. 44 of 2018 pending before the learned Sessions Judge, Osmanabad for the offences punishable under Sections 302, 201, 498-A read with 34 of I. P. C. arising out of the same F. I. R.

03. Informant-Respondent No. 2 Shashank Jalindar Pawar has lodged the said report. He is serving with Police in Beed District. He has four children – two sons and two daughters. Deceased Monali was his second daughter. Monali got married to original accused No. 1- Vinod Bapurao Chavan on 28.11.2014. Said Vinod Bapurao Chavan is also serving in Police Department. The informant has contended that when he tried to settle the marriage of Monali, at that time, the demand was for dowry

of Rs. 14,00,000/- and 7 tolas gold. The said proposal was refused by informant. However, thereafter, the hands of Vinod Chavan received burn injuries when he was defusing a bomb at Gadchiroli. Thereafter, when informant's parents and younger brother had gone to see him at Chausala, the relatives told that the marriage can be settled on payment of dowry of Rs. 7,00,000/- and 5 tolas gold. That was also not agreeable to the informant. But, he told that he would give dowry of Rs. 2,00,000/-, gold chain of 1 and $\frac{1}{2}$ tolas, gold ring of 1 tola and would give the remaining amount of dowry later on. On this settlement the marriage was performed. Monali was treated properly for about 3 months after the marriage. She was residing with Vinod who was then posted at Rabale Police Station, Navi Mumbai. His parents i.e. applicants No. 1 and 2 had gone to Mumbai. Monali was ill and therefore, applicant No. 2 was preparing food. Applicant No. 1 told applicant No. 2 that if she performs household work then Monali will pretend and then by giving pinching words and making demand of remaining amount of dowry they were harassing her. Medical treatment was not given to her. But, she was then sent to Beed where the informant gave her medical treatment. Informant made request to husband and the applicants that is the parents of husband and

paternal aunt and uncle of husband that Monali should be taken for co-habitation and the informant will fulfill the demand later on. She was then taken to Mumbai. Vinod was thereafter transferred to Osmanabad. At that time, Monali was left at Beed by him and he told that she should bring the remaining amount of dowry, then only she would be allowed to co-habit with him at Osmanabad. Again the applicants as well as her husband were requested by the informant by saying that the informant has no amount and he would give the amount whenever he receives. The belongings of Vinod were then shifted by son and nephew of the informant from Mumbai to Osmanabad. Thereafter, again at the time of Mahalaxmi Monali was left from Yermala, the place of posting of her husband to the house of informant by all the applicants and her husband on the ground that ornament has not been given and also the lamp has not been given. The advice was given to the applicants, husband as well as to Monali. But, Monali was not in a mood to go for co-habitation. But, again she was advised and left by her grandfather to Yermala. Thereafter, at the time of festival of Sankrant, Monali had asked her husband to purchase a saree for festive season to her, but, then he told that he has begun the construction of his house for which loan has been obtained and her parents have not

given the remaining amount of dowry, if she brings the said amount, he would purchase saree for her. She disclosed the said fact to her mother and grandmother. She was then advised that after the amount is received, they will give the amount. But, then he would give saree to her. Therefore, he purchased saree worth Rs. 2,700/- and then sent it through his son on 10.1.2018 to Yermala. He further states that on 24.1.2018 Vinod had gone to Aurangabad from Yermala for a workshop. He returned around 11.30 PM to 12 AM. He had given two calls to Monali and asked her to open the gate. After Monali had opened the gate Vinod started asking as to who was the man who had come in the house and then raising suspicion over her character. He started demanding divorce from her. Monali gave phone call to her mother at about 8.58 AM on 25.1.2018 and narrated entire incident to her. She also requested her mother that she should convey the said fact to her father who should talk to Vinod and advice him. Informant was near his wife. They both assured that they will talk to Vinod. Thereafter, around 9.15 AM informant's wife gave phone call to mother. At that time, she could only hear the cries of Monali. It was then learnt by the informant that during 8.30 AM to 9.17 AM Vinod had fired round from his service revolver towards

Monali and committed her murder on 25.1.2018. The said fact was not even communicated to the informant. Thereafter, the informant has lodged the report.

04. The applicants are contending that they have been falsely implicated. They were not even residing with Vinod and Monali at Mumbai as well as at Yermala and especially at the time when an alleged murder was committed. The contents of the F. I. R. do not disclose any offence which may amount to cruelty as contemplated under Section 498-A of I. P. C. Applicants No. 3 and 4 are the cousin mother-in-law and father-in-law. They are residing separately. They have been involved only because they are the relatives. The perusal of the charge-sheet would also show that no offence is made out against them. On this ground they have prayed for quashment of the F. I. R. as well as the entire proceeding.

05. Heard Mr. N. B. Narwade, learned Advocate for Applicants, Mr. S. J. Salgare, learned A. P. P. for Respondent No. 1-State and Mr. M. P. Kale, learned Advocate for Respondent No. 2. All of them have made submissions in support of their respective contentions. When it was pointed out to the learned Advocate for the applicants that this Court is not inclined to grant any

kind of relief to applicants No. 1 and 2, he prayed for the withdrawal of the applications as against them. Hence, the application stands disposed of as against the applicants No. 1 and 2 as withdrawn.

06. The application has been considered only in respect of applicant Nos. 3 and 4 who are the cousin mother-in-law and father-in-law of deceased Monali. Perusal of the F. I. R. as well as the statements of witnesses would clearly show that applicants No. 3 and 4 were not at all residing with Vinod and Monali at any point of time. Only omnibus statements have been made that alongwith husband and his parents applicants No. 3 and 4 had also made demand of the remaining amount of dowry. No specific act is attributed to applicants No. 3 and 4. There are no allegations that they had in any manner subjected Monali to cruelty, whatever acts have been done are stated to be against Vinod as well as his parents. Being relative when there was some kind of dispute if anything was done by applicants No. 3 and 4 to have settlement between the parties, that does not mean that they had in any way abetted or instigated commission of any crime by the husband and / or his parents. It is also required to be specifically noted that on the day of murder Monali was alone with original accused No. 1.

Under such circumstance, it would be a futile exercise to ask the applicants No. 3 and 4 to face the trial. Case is made out to exercise inherent powers of this Court under Section 482 of Cr. P. C. and it is also within the parameters laid down in **State of Haryana and Ors. V/s Bhajanlal and Ors., [1992 Supplement -1 Supreme Court Cases, 335]**, to allow the application of the applicants No. 3 and 4.

07. Hence, following order;

ORDER

(i)The application of applicants No. 1 and 2 is disposed of as withdrawn.

(ii)Application of applicants No. 3 and 4 is allowed.

(iii)Relief is granted to them in terms of prayer clause "B-1".

(iv)Rule made absolute in those terms.

[SMT. VIBHA KANKANWADI]

JUDGE

[T. V. NALAWADE]

JUDGE

Dahibhate/-