

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

CRIMINAL APPLICATION NO. 930 OF 2018

Maya s/o Bansi Gaisamudre,
Age 25 years, Occ. Education,
R/o. Loha, Tq. Loha, Dist.
Nanded.

... **Applicant**
(Ori. accused No.6)

VERSUS

1. The State of Maharashtra. ... **Respondents**
Through Police Station
Limbgaon, Tq. & Dist.
Nanded.
2. Kavita s/o Govind Jaltade,
Age 22 years, Occ. Household,
R/o. Limbgaon, Tq. & Dist.
Nanded.
Presently r/o. C/o. Vasanta
Prabhuji Kshirsagar, Irrigation
Colony, Patbandhare Vasahat,
Pusad, Tq. Pusad, Dist. Yeotmal.

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Advocate for Applicants : Mr. V.B. Dhage.
APP for respondent No. 1/State : Mr. S.B. Pulkundwar.
Advocate for respondent No. 2 : Mr. N.B. Patekar.

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

DATE : 19th June, 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. The original accused No. 6 has challenged first information report bearing Crime No. 02/2018 registered with Limbgaon police station for the offences punishable under section 498-A, 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 respondent no. 2 (original complainant) lodged a complaint against the applicant and others, for the offences as referred above.

(ii) Complainant alleged that her marriage was solemnized with original accused No. 1 on 27.05.2017 at Pusad. After marriage for about one month the accused persons treated the complainant well but thereafter at the instigation of accused No. 2 to 7, accused No. 1 started demanding more dowry of Rs. 3 lakh.

(iii) It is further alleged that on 30.05.2017 during return journey by visiting the goddess, the accused No. 1 stopped their vehicle at Loha and went to the house of applicant (original accused No. 6) with complainant. At that time complainant enquired about

the applicant to accused No. 1 but he did not answer. It is further alleged that, thereafter applicant started talking with accused No. 1 daily on telephone. Complainant again and again enquired about their relation to accused No. 1. Lastly, accused No. 1 told her that he has love affair with applicant and don't interfere between them.

(iv) It is further alleged by the complainant tried to cohabit with the accused persons but when accused No. 1 refused to cohabit with complainant she started residing with her parents. It is further alleged that on 22.10.2017 accused No. 1 to 6 came to the parental house of complainant and demanded Rs. 3 lakh. They also demanded divorce to complainant. When complainant refused to give divorce, accused No. 2 and her daughter-in-law started beating her and other accused persons instigating them. Thereafter one Shaikh Mahammad came there and he rescued the quarrel. With these allegations, offence came to be registered against the applicant and others 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. V.B. Dhage, learned counsel for the applicant, Mr. S.B. Puliundwar,

learned APP for the respondent No.1/State and Mr. N.B. Patekar, learned counsel for respondent No. 2.

5. On plain reading of the first information it appears that there are no specific allegations against the applicant about causing illtreatment or assault to the complainant. It is also to be noted that the applicant is not a relative of accused No. 1 (husband). The offence under section 498A of Indian Penal Code can be attracted only against the husband or the relatives of the husband. In the present case, the applicant is stated to be lover of accused No. 1. So, applicant does not come within the definition of relative of husband. Therefore, the offence punishable under section 498A of the Indian Penal Code does not attract against her. On perusal of the first information it also appears that there are no specific allegations of assault, threat or abuses against the applicant. So the other offences are also not attracted against the applicant.

6. In view of the above, the application is therefore liable to be allowed. Hence, following order is passed.

ORDER

1 The application is allowed.

2 Relief is granted in terms of prayer clause
 'B' only in respect of present applicant.

7. Rule made absolute in aforesaid terms.

(K. L. WADANE, J.)

(T.V. NALAWADE, J.)

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