

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

46 CRIMINAL APPLICATION NO.2208 OF 2014

- 1) Prakash Sahebrao Mairal, Age 33 years, Occ.: Business, R/o.: House No.18, S.No.156, Surewadi/Jadhavvadi, Near Govt. Hand Pump, Aurangabad.
- 2) Santosh Sahebrao Mairal, Age 40 years, Occ.: Agril., R/o.: Shree Ram Colony, Kannad, Tq. Kannad Dist. Aurangabad.
- 3) Shobhatai Karbhari Salunkhe, Age 45 years, Occ.:H.H., R/o.: Vanegaon, Tq. Phulambri, Dist. Aurangabad.
- 4) Manda Sudam Gaikwad, Age 37 years, Occ.: Service, R/o.: House No.18, S.No.156, Surewadi/Jadhavvadi, Near Govt. Hand Pump, Aurangabad.
- 5) Sudam Bajirao Gaikwad, Age 45 years, Occ.: Service, R/o.: House No.18, S.No.156, Surewadi/Jadhavvadi, Near Govt. Hand Pump, Aurangabad.
- 6) Sunita Sudhakar Dhone, Age : 35 Years, Occ.; H.H., R/o.: Chimnapur, Tq. Kannad, Dist. Aurangabad.

...Applicants

Versus

- 1) State of Maharashtra, Through Police Station Officer, Police Station Kannad, Kannad, Tq. Kannad Dist. Aurangabad.

- 2) Vimalbai Prakash Mairal, Age 29 years, Occ.: Service, R/o.: Shivrai, Tq. Kannad Dist. Aurangabad.

...Respondents

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Advocate for Applicants : Mr. Ravindra J. Nirmal

APP for Respondent No.1/State : Mr. R.V. Dasalkar

Advocate for Respondent No.2 : Mr. P.R. Imale

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

DATE : 23RD JULY, 2018

JUDGMENT : (PER K.L. WADANE J.)

1. Rules. Rule made returnable forthwith. With the consent of the parties, the application is taken up for final hearing.

2. The applicants have challenged the first information report lodged by respondent No.2 bearing Crime No. I-14/2014 registered with Kannad Police Station for the offences punishable under Sections 498(A), 323, 504, 506 read with 34 of the Indian Penal Code, on 22.01.2014.

3. We have heard the argument of Mr. Nirmal, the learned counsel for the applicants, Mr. Dasalkar, the learned APP for respondent No.1/State and Mr. Imale, the learned counsel for respondent No.2

4. We have perused the allegations of the FIR, from which it appears that it is alleged by respondent No.2 that, she married with applicant No.1 on 28.03.2003. After the marriage, she begotten a boy namely, Pranav. After the marriage, the present applicants have started ill-treatment to respondent No.2 and they were demanded of Rs.5 lakhs for opening a show-room of the tractor. They were physically and mentally ill-treating to respondent No.2. Therefore, her brother Bhaginath Gavande, Rakhamaji Marotirao and maternal uncle Narayan Dahatonde called a meeting and tried to convince the applicants, however, they were not in a mood to listen. As the parents of respondent No.2 were unable to pay such huge amount, therefore, other relatives i.e. applicant Nos.2 to 6 compelled applicant No.1 to perform a second marriage. However, respondent No.2 does not

know, who is the second wife. So according to respondent No.2, she was mentally and physically harassed by the applicants from her marriage, till 22.01.2014.

5. One can understand about the alleged ill-treatment at the hands of husband, however, in the present case, the first information report is lodged even against the brother and sisters of applicant no.1 and against husband of sisters those appear to be residing separately from applicant No.1. The allegations against applicant Nos.2 to 6 are appears to be vague i.e. about the instigation to applicant No.1 to ill-treat respondent No.2. From the record, it appears that applicant No.2 is residing separately at Kannad, applicant No.3 Shobhatai Karbhari Salunke is residing at Wanegaon, Tq. Phulambri, applicant Nos.4 and 5 are residing at Surewadi, Aurangabad and applicant No.6 is residing at Chimnapur, Tq. Kannad. So the allegations in the first information report appears to be improbable because it is alleged that all of them have instigated. Therefore, on the face of record, it appears that it is not probable that those persons, who are residing at a

different places, to come together at one time and instigate applicant No.1 in one voice.

6. So, looking into the nature of the allegations against applicant Nos. 2 to 6, we are of the opinion that on such a vague and general allegations, prosecution cannot be allowed to be continued. Applicant Nos.2 and 3 appear to be residing separately from applicant No.1 at different places.

7. In view of the above, the application of applicant Nos. 2 to 6 is allowed. Relief is granted to them in terms of prayer Clause 'B'.

8. The trial as against applicant No.1 – husband to go on and it is expedited. Rule is made absolute in those terms.

9. The Criminal Application is disposed of.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]