

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

CRIMINAL APPLICAITON NO. 992 OF 2018.

1. Khalil s/o Yunus Sayyed,
Age 29 years, Occ. Private Service,
R/o. Bhawan, Tq. Sillod, Dist.
Aurangabad.
2. Yunus s/o Dadamiya Sayyed,
Age 60 years, Occ. Business &
Agril. R/o. As above.
3. Gausiyabi w/o Yunus Sayyed,
Age 55 years, Occ. Household,
R/o. As above.
4. Kajal d/o Yunus Sayyed,
Age 22 years, Occ. Household,
R/o. As above.

... **Applicants**
(Ori. Accused).

VERUS.

1. The State of Maharashtra,
Through : Police Inspector,
Sillod (Rural) Police Station,
Tq. Sillod, Dist. Aurangabad.
2. Hanif Shah s/o Kasam Shah,
Age 51 years, Occ. Business,
R/o. Ektanagar, Power House,
Harsul, Aurangabad.

... **Respondents**
(Respondent No. 2 is
original complainant)

....

Advocate for applicants : Mr. Saeed S. Shaikh.
APP for respondent no. 1/State : Mr. M.M. Nerlikar.
Advocate for respondent No. 2 : Mr. Shaikh Shafique Ahmed.

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

DATE : 31st July, 2018.

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

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

2. The application is filed for relief of quashing of the first information report No. 364/2017, registered at Sillod (Rural) Police Station, Dist. Aurangabad, for the offences punishable under section 304-B, 498A, 323, 504, 506 read with section 34 of the Indian Penal Code.

3. The respondent No. 2 herein lodged complaint to the police station alleging that his daughter Shahanaj was given in marriage to the applicant No. 1. Their marriage took place on 31.05.2015. The daughter of the respondent No. 2 came to his house for delivery and on 23.04.2016 she delivered a male child. In the month of October 2016 son of the respondent No. 2 namely Sameer @ Saddaam went to meet his daughter and he noticed that the weight of Shahanaj was reduced. He enquired with applicant No. 2/ father-in-law of Shahanaj about it, on which he replied that her weight would be reduced and consequently she will die. In the month of November 2016 Shahanaj informed to the respondent No. 2 that the applicants No. 1 to 4 were demanding money for purchasing car. They abused and beat her. Thereafter she was driven out from their house. On 14.01.2017 the daughter of the respondent No. 2 was examined in the M.G.M. Hospital and concerned

doctor informed that Shahanaj was suffering from low B.P., therefore, she was required to admit in the hospital. On 20.01.2017 Shahanaj informed to the respondent No. 2 that her husband is having illicit relation with one widow.

4. It is further alleged by the respondent No. 2 that one day in-laws of his daughter mixed something in the food and since then Shahanaj was suffering from vomiting. She was hospitalized. On 22.01.2017 she was shifted from M.G.M. Hospital to Kalpataru Hospital. Again she was referred to Ghati Hospital, Aurangabad, where she died on 24.01.2017.

5. Looking to the allegations of the respondent No. 2 it appears that those are vague. No particulars are given as to the date, time on which the applicants have illtreated her. No particular act of each of the applicants has been mentioned. Further it was tried to be mentioned in the first information that the applicants have mixed something in her food and therefore she was suffering from vomiting. Such allegations indicate that Shahanaj wants to say that applicants have mixed the poison in her food.

6. During investigation the investigating officer collected opinion as to the cause of death of the deceased Shahanaj and the concerned doctor has opined that the deceased Shahanaj was died due to "Adisoniam crisis in a case of disseminated kochs". Furthermore, it appears from the record that since November 2016 Shahanaj was residing with respondent No. 2. Therefore, apparently it seems that the respondent no. 2 had not taken care to give proper medical treatment

and therefore it appears that she died because of Tuberculosis.

7. In view of the above, the allegations made against the applicants are vague, baseless, and therefore the applicants cannot be compelled to face the trial on such baseless allegations. Hence, following order:

ORDER

1. Application is allowed.
 2. Relief is granted in terms of prayer clause 'B'. Rule made absolute in those terms.
8. Criminal Application is disposed of.

(K. L. WADANE, J.)

(T.V. NALAWADE, J.)

mkd