

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

CRIMINAL APPLICATION NO. 1905 OF 2013

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| <p>1. Sayrabee Nayyar Shaikh
Age 80 Years, Occu: Household
R/o Chalisgaon, Dist. Jalgaon</p> <p>2. Shakil Ahmed Ali Ahmed
Age 57 yeas, Occu: Labour</p> <p>3. Shamimbano w/o Shakil Ahmed
Age 54 years, Occu: Household</p> <p>4. Danish @ Ashpak Ahmed Shakil Ahmed
Age 27 years, Occu: Labour</p> <p>5. Afrinbano w/o Sayyad Ashpak
Age 27 years, Occu: Labouer</p> <p>6. Shajiya d/o Shakil Ahmed
Age 20 years, Occu: Household
Applicants 2 to 4 R/o Plot No.54, Sr.
No.14, Block No.G-1
Near Masjid, Salarnagar, Jalgaon.</p> <p>7. Farhana @ Saleha Parvin w/o Mohammad
Shaikh, Age 24 years, Occu: Household,
R/o Plot No.986, Memon Galli,
Narayanpur, Roadgaon, Navapur,
Taluka & Dist. Nandurbar.</p> <p>8. Musbir Shaikh Alamgir
Age 21 years, Occu:Education
R/o Parkotha Mohalla, Nashirabad
Tq. & Dist. Jalgaon
Presently residing at Sillod
District Aurangabad.</p> | <p>...</p> <p>...</p> <p>...</p> <p>...</p> <p>...</p> <p>...</p> <p>...</p> <p>...</p> | <p>Applicants
(Orig.Accused)</p> <p></p> <p></p> <p></p> <p></p> <p></p> <p></p> <p></p> |
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VERSUS

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| <p>1. The State of Maharashtra
Through Azadnagar Police Station Dhule</p> <p>2. Farhanaj w/o Tanvir Ahmed Shaikh,
Age 21 years, Occu: Household</p> | <p>...</p> | <p>Respondents</p> |
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R/o C/o Haroon Shaikh Bhikari
Police Constable, Muslim Nagar (Kamgar
Nagar) Near National Urdu
High School, Dhule, Dist. Dhule

Mr. B. S. Deshmukh, Advocate for the applicants
Mr. R. V. Dasalkar, APP for the respondent State.
Mr. S. T. Kazi, Advocate for respondent No.2

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

DATE: : 31st July, 2018

JUDGMENT (Per K. L. Wadane,J.):

1. The application is filed under section 482 of the Code of Criminal Procedure for relief of quashing of the criminal proceedings bearing RCC No.22/2013 for the offence punishable under Section 498-A, 406, 323, 504, 506 read with 34 of the Indian Penal Code, pending before the Judicial Magistrate, First Class, Dhule.

2. Respondent No.2 Farhanj/original complainant lodged first information report against the present applicants and other accused persons alleging that she was married to Tanvir Ahmed Shaikh Alamgir on 24.10.2010 and started living with her husband at her matrimonial home Nashirabad. She was given gold/silver ornaments and other household articles in marriage. It is alleged that she was treated well by accused/applicants initially for some days. During that period her grandmother-in-law Sayrabi and sister-in-law Samreen have taken ornaments from the complainant by

taking her in confidence. Thereafter, her husband and other accused have asked the complainant to bring Rs. three lakh for the purpose of getting job to her husband and in pursuance to the demand, husband of the complainant and other accused persons/applicants started ill-treating the complainant, they used to beat her and harass her physically and mentally and some times she was kept without food. Her husband used to abuse and beat her and her sister-in-law Samreen was instigating him for obtaining divorce from the complainant. The complainant was made to work as servant. It is alleged that the applicants started torturing, insulting and ill-treating the complainant on trivial issues and they were instigating husband of the complainant against the complainant. It is alleged that on 08.04.2011 complainant was thrown out of the matrimonial house and it was threatened to her that unless an amount of Rs.3 lakhs is brought, she should not come back. Parents of the applicants tried to convince the husband and in-laws of the complainant to treat her well but in vain. Thereafter the complainant approached Mahila Suraksha Samiti, Dhule and notice was issued by the committee for counseling but they did not respond to the notice. Thereafter, on 29.07.2012 her husband Tanvir and father-in-law Alamgir came to the house of parents of the complainant and abused them as to why notice was sent and assaulted the complainant. With these allegations, offence bearing crime No. 111/2012 came to be registered with Azadnagar Police Station,

Dhule against the accused persons including applicants for the offence punishable under sections 498-A, 406 323, 504, 506 read with 34 of the Indian Penal Code.

3. Heard Mr. Deshmukh, learned for the applicants, Mr. Dasalkar, learned APP for the respondent State and Mr. Kazi, learned counsel for respondent No.2.

4. During investigation, the Investigating Officer has recorded statements of various witnesses and submitted the charge-sheet. We have perused the statement of witnesses recorded by the investigating officer. Statement of all these witnesses are in line with the contents of the first information report. Almost all the allegations which are appearing in the first information report are reproduced in the statements of the witnesses.

5. On perusal of the contents of the first information report it appears that specific allegation of demand of money, ill-treatment and harassment are made against husband Tanvir, applicant No.1- Grandmother-in law, sister-in-law Samrin and father-in-law who were residing jointly at Nashirabad. There are specific allegations against them that they have harassed the complainant and kept her without food, taken her ornaments and were beating her in pursuance of demand of money. Instances of harassment are given in the F.I.R.

6. Application of Applicant Nos. 1 Sayrabee and applicant No.8 Musbir Shaikh are already rejected by this Court vide order dated 18th February, 2018. Husband Tanvir Shaikh Alimgir is not party to this Application.

7. In order to lodge a proper complaint, mere mention of the sections and the language of those sections is not sufficient. Particulars of offence committed by each accused and role played by them in committing that offence need to be stated. In the instant case, allegations related to dowry demand and misbehavior, harassment are against husband and sister-in-law Samreen and grandmother-in-law, and father-in-law of complainant. Applicant Nos. 2 and 3 are father-in-law and mother-in-law respectively of sister-in-law of the complainant, Applicant No. 4 is husband of sister-in-law and applicant No.5 is sister-in-law of the complainant, applicant No.3 is sister-in-law of father in-law of the complainant. Applicant No. 6 and 7 are sister-in-law of sister-in-law of the complainant, whereas applicant No.8 is brother-in-law of the complainant. All family members of the accused husband are roped in the offence. Allegation against applicant Nos. 2 to 7 are that time and again they were instigating her husband against the complainant and were abusing and harassing the complainant.

8. It appears that applicant Nos.2 to 6 are residing separately at

Salarnagar, Jalgaon and applicant No.7 is residing at Navapur Dist. Nandurbar. Their Adhar Cards are produced on record at Page Nos. 35 to 39 of the paper book to show their residence. There was no occasion for the applicant No. 2 to 7 to harass or torture the complainant on the grounds stated in the F.I.R. and they have no direct concern/nexus with the family affairs of complainant and her husband.

9. On perusal of the first information report, it appears that there is no material particular quoting any specific incident about ill-treatment or harassment against applicant Nos. 2 to 7 so as to attract ingredients of section 498-A of the Indian Penal Code. Allegations against these applicants in the first information report are vague and general in nature. On its face, the complaint does not constitute any offence against applicant Nos. 2 to 7. Nothing can be achieved if criminal proceedings are allowed to be continued against these applicants. Therefore, we found considerable force in the argument of Mr. Deshmukh, learned counsel for the applicant for quashing the F.I.R. to the extent of the applicant Nos. 2 to 7.

10. In view of the above, in order to prevent the abuse of process of law, we find that discretion needs to be exercised in respect of Applicant Nos. 2 and 7. Hence following order:

ORDER

i. Application of applicant Nos. 2 to 7 is hereby allowed.

- ii. Criminal proceedings bearing RCC No.82/2013 for the offence punishable under Section 498-A, 406, 323, 504, 506 read with 34 of the Indian Penal Code, pending before the Judicial Magistrate, First Class, Dhule is hereby quashed and set aside to the extent of Applicant Nos. 2 to 7.
- iii. Rule is made partly absolute in the above terms.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC