

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1028 OF 2018

Kanta @ Suryakant
s/o. Chandrakant Gavane,
Age : 50 years,
Occupation : Agriculture,
R/o. Borgaon (Kh.),
Taluka Kaij, Dist. Beed.

...Applicant

Versus

1) The State of Maharashtra,
Police Station, Shiradhon,
Taluka Kaij, Dist. Osmanabad,
Through its Police Inspector.

2) Dnyaneshwari Dnyandeo Pawar,
Age : Major,
Occupation : Household,
R/o. Kallamb Amba,
Taluka Kaij, Dist. Beed.

...Respondents

Mr. P. B. Rakhunde, Advocate for applicants.

Ms. V. S. Choudhary, Addl. Public Prosecutor, for respondent
No.1 / State.

Mr. M. L. Wankhede, Advocate for respondent No.2
(appointed)

**CORAM : T. V. NALAWADE &
SMT.VIBHA KANKANWADI. JJ.**

DATE : 19-09-2018.

ORAL JUDGMENT : (Per SMT. VIBHA KANKANWADI, J.)

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

2. Present application has been filed by original accused No. 4 invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure in order to quash the First Information Report vide Crime No. 04 of 2018, registered with Shirdhon Police Station, Dist. Osmanabad, for the offences punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code. Charge-sheet came to be filed during the pendency of this application, hence, prayer is also made for quashment of the same.

3. Respondent No.2 got married to one Dnyandeo Balasaheb Pawar on 24-04-2017. Applicant is the maternal uncle of husband of respondent No. 2.

4. Respondent No.2 – informant has contended that, she went to her matrimonial home after marriage to stay with her husband and parents-in-laws. She was treated properly for about 8/10 days at matrimonial home. Her husband was not establishing physical relations with her. When she asked him about the same, he told that he is not competent. She advised him to get medical advise, but he did not pay attention. Thereafter applicant No. 2 to 4 started assaulting her by saying that she is not good. She was tried to be strangulated. She was threatened of dire consequence in case of discloser of the same by her to her parents. She stayed there for

about two months. Thereafter they started demanding Rs.1,00,000/- for construction. She was then driven out of the house to bring the said amount from her parents. She had requested several times to take her for cohabitation, but it was in vain. Therefore, she has lodged the report.

5. The applicant has contended that, he has been roped unnecessarily only because he is maternal uncle of husband of respondent No. 2. The averments in the FIR are vague. No date, time and place is mentioned regarding alleged ill-treatment. The statements of witnesses are also vague. Therefore, they have prayed for quashment of the proceeding.

6. Heard learned Advocate Mr. P. B. Rakhunde appearing on behalf of applicants, learned Addl. Public Prosecutor Ms. V. S. Choudhary and learned Advocate Mr. M. L. Wankhede, appointed for respondent No.2. All of them have argued in support of their respective contentions.

7. Perusal of FIR would show that no specific role has been attributed against applicant in respect of offence under Section 498-A of the Indian Penal Code. If at all there would have been a demand it would have been mainly by the husband and the father and mother-in-law. The perusal of the entire FIR would show that all of them had made the demand in chorus which is not possible

when elders are there. Nothing was demanded by applicant for him as the allegations in the FIR itself. Moreover applicant appears to be staying separately from husband and in-laws of respondent No. 2, though in the same village. It is not her contention that her family members used to take advise of present applicant in every domestic affair. Statements of witnesses show the same state of affairs. So, it appears that, as a routine all the relatives of the husband have been roped. It would be futile exercise to ask applicant to face the trial, with such quality of evidence. Under such circumstance relief is required to be granted to the applicant by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) Application is hereby allowed.
- 2) Relief is granted in terms of prayer clause "F" (in respect of R. C. C. No. 27 of 2018 before Judicial Magistrate First Class, Kalamb, Dist. Osmanabad) to the applicant only.
- 3) The fees of the learned Advocate appointed for the first informant is quantified at Rs.3,000/- (Rupees Three Thousand Only) and is to be paid through High Court Legal Services Authority, Sub-Committee, Aurangabad.
- 4) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.