

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1869 OF 2008

- 1] Vasantsingh S/o Gopalsingh Gautam,
Age : 60 years, Occu. Agril.
- 2] Tarabai Vasantsingh Gautam,
Age : 56 years, Occu. Household,
- 3] Bhimsingh @ Nanu S/o Vasantsingh
Gautam,
Age : 22 years, Occu. Agril.
Applicant No. 1 to 3 are R/o Mulher,
Tq. Satana, Dist. Nasik.
- 4] Rani Shailandrasingh Chavan,
Age : 25 years, Occu. Household,
- 5] Shailandrasingh S/o Rajbahadursingh
Chavan,
Age : 30 years, Occu. Business,
R/o of Applicant No. 4 & 5 at C-15,
Sainagar, Amrutdham Panchvati
Nasik.
- 6] Vedusingh S/o Dhodusingh Pardeshi,
Age : 75 years, Occu. Agril.
R/o Rajwad, Tq. Parola,
Dist. Jalgaon.

...Applicants

Versus

- 1] The State of Maharashtra,
Through I. O. Kannad Police Station,
Dist. Aurangabad.
- 2] Aarati W/o Hitinsingh Gautam,

Age : 27 years, Occu. Household,
R/o Brahman Galli Kannad,
Dist. Aurangabad.

} ...Respondents

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Mr. P. B. Patil, Advocate for Applicants.
Mr. R. V. Dasalkar, A. P. P. for Respondent No. 1 / State.
Mr. S. S. Wagh, Advocate for Respondent No. 2.

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**CORAM : T. V. NALAWADE &
SMT. VIBHA KANKANWADI, JJ.**
DATE : 24-08-2018.

JUDGMENT : (Per Smt. Vibha Kankanwadi, J)

01. Present application has been filed by original accused Nos. 2 to 7 for quashing proceedings i.e. F. I. R. in case No. 7/2008 dated 7.2.2008 registered with Kannad Police Station, Dist. Aurangabad and quashing of order dated 6.5.2008 regarding issuance of process passed by learned J. M. F. C., Kannad in R. C. C. No. 93/2008.

02. Applicant No. 1 is the father-in-law. Applicant No. 2 is mother-in-law. Applicant No. 3 is brother-in-law and applicant No. 4 is the sister-in-law. Applicant No. 5 is husband of applicant No. 4 and applicant No. 6 is the uncle of husband of respondent No. 2. Respondent No. 2 -informant filed a private complaint i.e. Misc. Criminal Appln. No. 35/2008 for the offences punishable under Sections 498-A, 323 and 504 read with 34 of I. P. C.

against present applicants as well as her husband. She got married to accused No. 1 Nitinsing Gautam about 2 and half years prior to the said complaint. She was treated properly by accused No. 1 for about 4 to 6 months only. Thereafter, he has harassed her physically and mentally. It is stated that accused No. 1 had illicit relations and even now he resides with her. A statement has been made that accused No. 1 and other accused persons had harassed her mentally and physically as dowry was not given at the time of marriage. Thereafter, she says that on 2.2.2008 when she was in her house at Kannad between 6 to 7 PM all the accused persons went there and asked amount of Rs. 50,000/- to be given for purchase of vehicle or she should give divorce. When her mother told that she is not in a position to give the amount, at that time, accused Nos. 5 and 6 caught her hold of and the others assaulted her and abused her.

03. Taking into consideration the said complaint, it was sent for investigation under Section 156(3) of Cr. P. C. On the basis of said complaint, F. I. R. vide C. R. 7/2008 came to be registered and thereafter, charge-sheet has been filed.

04. Heard learned Advocate Mr. P. B. Patil for

applicants, learned A. P. P. Mr. R. V. Dasalkar for State and Mr. S. S. Wagh, learned Advocate appointed for respondent No. 2. Perused the copy of the charge-sheet.

05. It can be seen from the complaint as well as the F. I. R. that the informant-wife had tried to make allegations against the present applicants on two counts. One is that since the dowry was not given she was harassed mentally and physically. However, it is to be noted that she has not stated in specific words as to when exactly and who had demanded the amount and for what purpose to her. Only omni bus statement at para No. 5 has been made that she was harassed physically and mentally as dowry was not given. The second incident she wanted to relate to the present applicants that on the day of incident i.e. On 2.2.2008 all the accused went to her mother's house around 6 to 7 PM and then made demand of Rs. 50,000/- for purchase of jeep or she should give divorce to accused No. 1. It is to be noted that as per her own contention accused No. 1 had left her long ago. Under such circumstance, it is remote possibility that all the other accused persons along with accused No. 1 would have gone to her house in order to make any kind of demand. It appears that though statements have been made only to bring jurisdiction to the Police Station, Kannad as well

as J. M. F. C., Kannad. It appears that even statements of witnesses are on the same line. Further, it is to be noted that applicant No. 1 had given a report to the Police Station on 26.1.2008 that accused No. 1 i.e. Nitin had gone to meet applicant No. 1 at Muldare. On 2.1.2008 and on 3.1.2008 he along with the informant went to take darshan of Goddess. They returned at about 5 PM and accused No. 1 went from the house around 5.30 PM. But, he has not returned till 26.1.2008. Thus, if the husband was missing for so many days how he can be said to have harassed or even the applicants had harassed the complainant-wife. Under such circumstance, merely on the basis of omni bus statement, the applicants need not be asked to face the trial. This is a fit case where inherent powers of this Court under Section 482 of Cr. P. C. are required to be invoked.

06. Hence, following order;

ORDER

(i) Application is hereby allowed in terms of prayer clause "C".

(ii) Fees of the learned Counsel appointed for respondent No. 2 is quantified at Rs. 3,000/- which would be payable by the High

Court Legal Services Sub-Committee at
Aurangabad.

[SMT. VIBHA KANKANWADI]

JUDGE

[T. V. NALWADE]

JUDGE

Dahibhate/-.