

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

CRIMINAL APPLICATION NO. 1946 OF 2008

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| <p>1. Yishwanath s/o Kashinath Pune,
Age 48 years, Occu: Service- As lecturer in
Sonopant Dandekar College, Palghar,
R/o Palghar, Dist. Palghar.</p> <p>2. Madhubala @ Madhu w/o Vishwanath Pune,
Age 42 years, Occu: Service as Teacher
R/o As above.</p> <p>3. Sunita w/o Revansidha Ghatole,
Age 58 years, Occu: Household,
R/o 28 Years, Occu: Jodhbhavi Peth, Sllapur.</p> <p>4. Mangala w/o Chandrakant Chounde
Age 55 yeas, Occu: Household,
R/o Pochamma Galli, Latur</p> <p>5. Dharampal s/o Shankarappa Chawale,
Age 52 years, Occu: Business,
R/o Degloor Road, Udgir,Dist. Latur</p> <p>6. Meena w/o Dharampal Chawale
Age 46 years, Occu: Household
R/o As above.</p> | <p>.. Applicants
(Orig.Accused)</p> |
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VERSUS

1. The State of Maharashtra
Through Police Inspector
Lohara, Tq. Lohara Dist. Osmanabad.

2. Yogita Mahadeo Tattapure
R/o Hatte Nagar, Masjid Road,
Latur, At present, Makani Tq. Lohara
Dist. Osmanabad.

.. **Respondents**

Mr. Pratap G. Rodge, Advocate for the applicants
Mr. S. J. Salgare APP for the respondent State.
Mr. S. P. Urgunde Advocate for respondent No.2

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

DATE: : 17th July, 2018

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

1. Rule. Rule made returnable forthwith. With the consent of the parties, the application is taken up for final hearing.
2. The application is filed under section 482 of the Code of Criminal Procedure for relief of quashing of first information report bearing Crime No. 12/2008 registered against the applicants and other accused persons at Police Station Lohara, Dist. Osmanabad for the offence punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.
3. Respondent No.2/original complainant lodged first information report alleging that she was married to one Mahadeo Shivmurti Tattapure in the year 2007 and started living with her husband

at her matrimonial home. It is alleged that she was treated well initially for a month and thereafter her husband and maidservant Mumtaj Shaikh started ill-treating and harassing the complainant. It is alleged that her husband was having illicit relation with said Mumtaj and the complainant herself noticed the same and separated them from each other. When complainant asked her husband about Mumtaj, the complainant admitted the relation and threatened the complainant not to disclose the fact to any one, else he would burn her alive. Her husband used to beat her with kick and fist blows when she was pregnant and made her to abort fetus against her will. It is alleged that Her husband and said Mumtaj were harassing the complainant physically and mentally and subjected her to cruelty.

4. It is further alleged in the FIR that all four sister-in-laws of the complainant i.e. applicants 2, 3, 4 and 6 came on Diwali Occasion. At that time they tortured and insulted the complainant in presence of Mumtaj and asked the complainant to admit relation of her husband with Mumtaj. It is further alleged that on 9th November, 2007, her husband, so also sister in-laws, Smt. Nanda, Sunita, Smt. Mangala, Meena, Madhu and Mumtaj as well as Applicant No.1 Vishwanath

Punekar- husband of applicant No.2 and applicant No.5 Dharmpal Chawale, husband of applicant no. 6 Meena have asked the complainant to bring Rs one lakh and Car from her parents, else they will kill her. They also beat the complainant and harassed her physically and mentally. It is further alleged that the applicants were time and again visiting the matrimonial home of the complainant and were harassing her mentally and physically and they were instigating her husband Mahadeo.

5. Heard Mr. P. G. Rodge, learned counsel for the applicants, Mr. S. J. Salgare, learned APP for the respondent State and Mr. S. P. Urgunde, learned counsel for respondent No.2.

6. From the contents of the complaint it appears that specific allegation of ill-treatment, harassment cruelty and demand of money are made against husband Mahadeo and Mumtaj. Instances of harassment and cruelty are given in the F.I.R. Accused Mahadeo and Mumtaj are not party to this application.

7. On perusal of the contents of the first information report it appears that applicant Nos. 2, 3 4 and 6 are married sisters of husband of complainant. Applicant No.1 is husband of applicant No. 2 and

applicant No.5 is husband of applicant No.6. Applicant Nos. 1 and 2 are in service and they are residing at Palghar. Applicant No.3 is residing at Solapur. Applicant No.4 is residing at Latur and Applicant Nos. 5 and 6 are residing at Udgir. Allegation against the present applicants is that time and again they were instigating her husband against the complainant and were harassing the complainant.

8. Learned counsel for the applicants relied on the decision of the Apex Court in the case of **Y. Abraham Ajith & ors. Vs. Inspector of Police, Chennai and another**, and submitted that the applicants were not residing at the place where the incident alleged in the complaint taken place and therefore the FIR and the charge sheet against them deserve to be quashed and set aside. The learned counsel also relied on the case of **Neelu Chopra and another Vs. Bharti, reported in (2009) 10 Supreme Court Cases 184**, wherein, the Apex Court observed that in order to lodge a proper complaint, mere mention of the sections and the language of those sections is not the be all and end all of the matter. What is required to be brought to the notice of the court is the particulars of the offence committed by each and every accused and the role played by each and every accused in committing of

that offence.

9. It appears that present applicants are residing separately at their respective places. The applicants have no direct concern/nexus with the family affairs of complainant and her husband and they have no way connected with the incident in question as alleged in the complaint. There was no occasion for them to harass or torture the complainant on the grounds stated in the FIR. On perusal of the first information report, there is no material particular quoting any specific incident about ill-treatment or harassment against applicants so as to attract ingredients of section 498-A of the Indian Penal Code. Allegations against applicants in the first information report are vague and general in nature. On its face, the complaint does not constitute any offence against applicants. 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. Rodge, learned counsel for the applicant for quashing the F.I.R. to the extent of the applicant

10. In view of the above, it would be an abuse of the process of law to allow the prosecution to continue against the present applicants ,

on the basis of a vague and general allegations. Hence following order:

O R D E R

- i. Application is hereby allowed.
- ii. First information report bearing bearing Crime No. 12/2008 registered at Police Station Lohara, Dist. Osmanabad for the offence punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code and consequent Charge-Sheet filed against the applicants and other accused are hereby quashed and set aside to the extent of present Applicants 1 to 6.
- iii. Rule is made absolute in the above terms.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC