

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1109 OF 2018

- 1) Alka w/o Shriram Khalge,
Age 55 years, Occupation Service,
R/o Behind Court Premises,
Majalgaon Dist. Beed.
- 2) Shriram s/o Vithalrao Khalge,
Age 60 years, Occupation Service,
R/o Behind Court Premises,
Majalgaon Dist. Beed.
- 3) Kiran s/o Shriram Khalge,
Age 25 years, Occupation Service,
R/o Behind Court Premises,
Majalgaon Dist. Beed.
- 4) Varsha d/o Shriram Khalge,
Age 27 years, Occupation Service,
R/o Behind Court Premises,
Majalgaon Dist. Beed.

...Applicants

Versus

- 1) The State of Maharashtra
Through the Principal Secretary,
Home Department, Mantralaya,
Mumbai – 32.
- 2) The Police Inspector,
Police Station, Vadavani,
Dist. Beed.
- 3) Pooja w/o Rajesh Dhaytadak,
Age 24 years, Occupation Housewife,
R/o At Present Old Mondha,
Ambedkar Chowk,
Vadavani Dist. Beed.

...Respondents

Mr. D. P. Palodkar, Advocate for applicants.
Ms. V. S. Choudhary, Addl. Public Prosecutor, for respondents
No.1 and 2/ State.
Mr. S. J. Salunke, Advocate for respondent No.3.

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

DATE : 06-09-2018.

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

1. Rule. Rule made returnable forthwith, with the consent of all the parties heard for final disposal.

2. Present application has been filed by original accused No. 2 to 5 seeking quashment of First Information Report (FIR) by invoking powers of this Court under Section 482 of Code of Criminal Procedure.

3. Present applicant No.1 is the sister-in-law of respondent No.3. Applicant No.2 is husband of applicant No.1 and applicants No. 3 and 4 are their children. Respondent No.3 got married to one Rajesh Dhaytadak on 18-08-2014. Applicant No.1 is sister of Rajesh. After her marriage, respondent No.3 started cohabiting with her husband at Osmanabad. She was treated properly for about 6 months. Her husband is aged 40 years and she is aged 24. All the applicants are residents of Majalgaon Dist. Beed. All the accused

persons including Rajesh, started harassing informant on the count that she should bring amount of Rs.2,00,000/- for purchasing four wheeler. She expressed inability, and thereafter all the accused started beating her and abusing her. She was pushed from terrace on 20-07-2017. She had lodged report about the same with Anandnagar Police Station, Osmanabad. All the accused had then drove the informant from the house and told her that she will not be allowed to cohabit in case she fails to bring the amount. Since then she is residing with her parents. All the accused went to her parents' house at Vadawani on 05-02-2018 and assaulted her on the count of demand of amount. She had therefore, filed complaint. Thereafter again she was assaulted at about 8.00 p. m. On 21-02-2018, when she was sitting in the house of her father. All the accused had come with three unknown persons in a black vehicle. They asked her as to why she has lodged complaint against them. They again told her that they will not take her back unless she fulfills the demand of Rs.2,00,000/-. She as well as her parents were assaulted. Hence, she filed the FIR.

4. Applicants are contending that they are innocent. They are residing separately from the husband of respondent No.3. They have been falsely implicated only on the ground that they are related to Rajesh. Respondent No.3 has no desire to cohabit with her husband due to the age gap. The marriage was performed

against her will and therefore, she was picking up quarrels with her husband on one or the other pretext. Applicants are trustees of institution and they are engaged in their respective activities. They have therefore, prayed for quashing up of the FIR.

5. Heard learned Advocate Shri. D. P. Palodkar for the applicants, learned A. P. P. Smt. V. S. Choudhari for respondent No.1 and 2 and learned Advocate Shri. S. J. Salunke for respondent No.3. Perused the police papers. All the learned counsels have made their submissions in support of their respective contentions.

6. It appears from the contents of the FIR that husband and respondent No.3 were residing at Osmanabad; whereas present applicants are residing at Majalgaon. The documents produced on record would show that all the applicants are serving in an institution. When they are residing separately, it is hard to imagine that they would have harassed respondent No.3 on the count of demand of vehicle. Further it appears that in order to bring the jurisdiction to the police station Vadawani, the allegations are made that all the accused had come on a particular day to make demand of amount. It is to be noted that as per FIR when informant was driven out of the house on the ground of demand for amount, then why the accused would go to the house of father of the informant to make demand. This fact is indigestible. The statements of witnesses,

who are mostly the relatives of respondent No.3 have stated same facts as per FIR. No other information has been given by them. Parents of respondent No.3 have not stated what efforts they had tried to reconcile the dispute between their daughter and her husband. It has become a routine affair to make allegations against all the relatives of husband and book them in such case. When such relatives are residing at different place then, such allegations do not hold water. No specific role is attributed to the applicants. Why the children and husband of sister of husband would participate in harassment ? Therefore, case is made out for exercising powers of this Court under Sec. 482 of Code of Criminal Procedure to quash the FIR. Applicants can not be asked to face the trial with such kind of allegations. Hence following order :

ORDER

1. Application is allowed.
2. Relief is granted in terms of prayer clause 'B'.
3. Rule made absolute in above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE