

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1192 OF 2018

- 1) Bhushan Ashok Dolas,
Age : 31 years, Occu. : Nil,
R/o N-9, Plot No. 15/3,
Cidco, Aurangabad, Tq. & Dist.
Aurangabad.
At present Shivaji Nagar, Pune.
- 2) Mangal Ashok Dolas,
Age : 50 years, Occu. : Household,
- 3) Ashok Namdev Dolas,
Age : 54 years, Occu. : Private
Service,
- 4) Rohit Ashok Dolas,
Age : 28 years, Occu. : Service,
- 5) Sheetal Rohit Dolas,
Age : 26 years, Occu. : Household,
All R/o N-9 Plot NO. 15/3,
Cidco, Aurangabad, Tq. & Dist.
Aurangabad. ...Applicants

Versus

- 1) The State of Maharashtra
Through Investigation Officer,
CIDCO, Police Station, Aurangabad,
Tq. & Dist. Aurangabad.
- 2) Savita Bhushan Dolas,
Age : 27 years, Occu. : Beauty Polar
& Tutition,
R/o House No. L-15/3, N-9, CIDCO,
Shivajinagar, Aurangabad,
Tq. & Dist. Aurangabad. ...Respondents

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Mr. R. V. Gore, Advocate for Applicants.

Mr. R. V. Dasalkar, Addl. Public Prosecutor, for
respondent No.1 / State.

Mr. A. S. Rasal and Mr. S. R. Shinde, Advocates for
Respondent No. 2.

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

DATE : 02-11-2018.

ORAL JUDGMENT : (Per Smt. Vibha Kankanwadi, J.)

01. Present application has been filed by original accused persons 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. 41 of 2018, registered with Police Station CIDCO, Aurangabad, for the offences punishable under Section 498-A, 354, 354-A(1), 323, 504, 506 read with 34 of the Indian Penal Code and Sec. 3 and 4 of Dowry Prohibition Act, 1961.

02. Respondent No. 2 got married to applicant No.1 on 18-03-2012. Applicant No.1 is the husband of respondent No.2, applicants No.2 and 3 are the parents of applicant No.1, and applicants No.4 is brother of applicant No.1 and

applicant No.5 is wife of applicant No.4.

03. Respondent No. 2 – informant has contended that, at the time of marriage her father had given dowry of Rs. 6,00,000/- and gold ornaments as well as household articles. Her father had spent around Rs.25 lakhs on her marriage. She was treated properly by all the accused for about two months after marriage. Thereafter, accused persons started mentally harassing her by picking up quarrels on trifle matters. When she disclosed the harassment to her parents, they advised accused persons as well as herself. Harassment got increased thereafter. Other accused persons used to tell bad things about her to her husband, and then he used to abuse and beat her. Accused persons used to say that she is unable to cook food properly. They started demanding amount of Rs.7 lakhs for purchasing flat. She told that it will not be possible for her father to make arrangement as her sister and brother are yet to marry. In the mean time she delivered girl child. Accused persons started cursing her on that count. There were attempts to resolve the dispute, but there was no change in the behaviour of accused persons. Her husband and father-in-law used to drink liquor and giving pinching words to her. They used to say that until she brings the amount, she will have to suffer harassment.

Her father-in-law had misbehaved with her under the influence of liquor. When she had tried to disclose it to her mother-in-law, she blamed her for making false allegations. She was threatened to kill in case she discloses it to anybody. There was attempt to kill her by consumption of poison. She was confined once in the house by accused persons. Accused persons have kept gold ornaments with them. She was driven out of the house on 03-02-2018. Therefore, she has lodged the report.

04. The applicants have contended that, applicant No. 1 has filed petition under Section 10 of Hindu Marriage Act for judicial separation in November 2016 (A-530-2016). When the evidence in the matter was about to complete, informant came to his house. He filed application to that effect before learned Judge, Family Court, Aurangabad for injunction against her. In the say, informant has stated that she is residing with him and she has no complaint against him. Injunction was granted against her to remove herself from his house. She had challenged the said order before this Court. Status-quo has been granted. Parties were referred to mediation. He has not given consent for anything. It is stated that the complaint is vague and baseless. There is delay in lodging FIR. Applicants NO. 2 to 5 have been falsely implicated.

The story about outraging her modesty by father-in-law is false and does not find place in her say before Family Court. Therefore, they have prayed for quashment of the proceeding.

05. Heard learned Advocate Mr. R. V. Gore appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. R. V. Dasalkar and learned Advocate Mr. S. R. Shinde, appearing on behalf of respondent No.2. Petition in respect of applicant No. 1 to 3 was not pressed and therefore vide order dt. 04-05-2018 petition was dismissed to the extent of applicants No. 1 to 3. Further during the course of arguments, when it was pointed out to the learned advocate for the applicants that, this Court is not inclined to grant any relief to applicants No. 4, he prayed for withdrawal of the application as against him.

06. The application was considered only for the allegations against the sister-in-law/ applicant No.5. No specific role has been attributed against her in respect of offence under Section 498-A of the Indian Penal Code. There are no specific allegations that she had demanded any amount to informant. 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 No. 5 for herself as per the allegations in the FIR itself. Omnibus statements have been made that along with other accused persons she was also harassing her. What could have been motive for applicant No. 5 to harass informant? Applicant No. 5 is also a daughter-in-law in the said house. So, it appears that, as a routine she is also made as accused as the relative of the husband. It would be futile exercise to ask her to face trial. Under such circumstance relief is required to be granted to the applicant No. 5 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order ;

ORDER

- (i) Application of applicant No. 4 is disposed of as withdrawn.
- (ii) Application of applicants No. 1 to 3 is already not pressed.
- (iii) Application of applicant No. 5 is allowed.
- (iv) Relief is granted in terms of prayer clause "B" to the applicant No. 5 only.

(v)Rule made absolute in the above terms.

[SMT. VIBHA KANKANWADI]

JUDGE

[T. V. NALWADE]

JUDGE

Dahibhate/-