

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

909 CRIMINAL APPLICATION NO.1977 OF 2017

- 1) Satyajeet s/o Machindra Gojame
Age:36 years Occ.: Pvt.Service
R/o.: C/o. Jeevan Kolhe, Opp.
Morya Sparsh, Kohewadi,
Sinhagad Road, Pune.
- 2) Machindra Vithalrao Gojame,
Age: 66 years Occ.: Agri &
Social Work, R/o.: Ahmedpur,
Tq. Ahmedpur, Dist. Latur.
- 3) Sau.Usha w/o Machindra Gojame,
Age: 60 years Occ.: Household,
R/o.: Ahmedpur, Tq. Ahmedpur,
Dist. Latur.
- 4) Nandkumar s/o Machindra Gojame
Age: 33 years Occ.: Service in
Citi Bank, R/o.: B-2, F-3,
Govind Gorkhade Complex,
Seminary Halls, Nagpur.
- 5) Sudhakar s/o Mahadeo Vibhute,
Age: 58 years Occ.: Arya Samaj
Pracharak, R/o.: A-201, **Applicants**
Ganesham, Phase-2, Pimple
Saudagar, Near Gold Gym, Pune.

Versus

- 1) The State of Maharashtra,
Through Ahmedpur Police
Station, Ahmedpur.
- 2) Jyoti w/o Satyajeet Gojame,
Age: 23 years Occ.: Household,
R/o.: Mane Niwas, Take Nagar, **Respondents**
Veer Hanmantwadi, Kavha Road,
Latur Dist. Latur.

Mr. Milind M. Joshi, learned Counsel for the
Applicants

Mrs. D.S. Jape, learned APP for respondent No.1/
State

Mr. Sandeep D. Munde, h/f Mr. S.S. Gangakhedkar,

learned counsel for respondent No.2

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

DATE : 21st June, 2018

JUDGMENT (PER : K.L. WADANE, J.)

Rule. Rule made returnable forthwith.
With the consent of the parties, the application is taken up for final hearing.

2. The present application is filed by the applicants to quash and set aside the charge-sheet bearing RCC No.152 of 2016, pending before the Judicial Magistrate First Class, Ahmedpur under Sections 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code.

3. The respondent No.2 has lodged complaint to the police station, Ahmedpur with the allegations of ill-treatment against the applicants. On the basis of which the offence came to be registered against the applicants.

4. The applicant No.1 is the husband and applicant Nos.2 and 3 are the father-in-law and mother-in-law of the respondent No.2/complainant.

The respondent No.4 is the brother-in-law and the respondent No.5 is the cousin brother-in-law i.e. uncle of her husband of the complainant.

5. The allegations against the applicants are that the amount of Rs.50,000/- as dowry was remained to be paid to the applicants, due to poverty of her father. The applicant No.3 mother-in-law always used to abuse the complainant on account of non-payment of remaining dowry amount. It is also further alleged that the mother-in-law was instigating her husband Satyajeet, due to which her husband compelled her for abortion due to which there was heavy bleeding and therefore, she was admitted in the Navjeevan Hospital. Subsequently, the applicant Nos.2, 4 and 5 were were constantly abusing her because of the non-payment of remaining dowry amount. Lastly, on 11.10.2015, the complainant was driven out from the house and since then she is residing with her parents.

6. Heard, Mr. Milind M.Joshi, learned Counsel appearing for the Applicants, Mrs. D.S.

Jape, learned APP appearing for the respondent No.1/ State and Mr. Sandeep D.Munde, h/f Mr. S.S. Gangakhedkar, learned counsel for the respondent No.2.

7. Milind Joshi, the learned counsel for the applicants has produced on record the copy of the leave and license agreement between the applicant No.4 – Nandkumar and the landlord Sunil Gaikwad. On perusal of the same, it appears that this agreement is dated 1st February, 2015. It also appears that the respondent No.4 residing at Nagpur. The transfer voucher of gas connection and it's receipts are produced on record. From the same, it appears that the applicant No.4 is residing at Nagpur. So also it appears from the record that the applicant No.5 is residing at Pune and he is uncle of the husband of the complainant. Looking to the residential places of applicant Nos.4 and 5, they are residing far away from the residence of the applicant Nos.2 and 3. There are specific allegations against the applicant Nos.1 to 3 and the allegations against the applicant Nos. 4 and 5 are vague and general in nature.

Further mother, it appears from the record that the applicant Nos. 4 and 5 are residing at Nagpur and Pune respectively. Therefore, it is highly impossible that only for the purpose of ill-treatment, they joined hands with each other and came to the place of the complainant and given her ill-treatment. Therefore, apparently, the allegations against the applicant Nos.4 and 5 are appear to be vague. Prima facie, the ingredients of Section 498-A of the Indian Penal Code are not established and therefore, continuation of the Criminal proceeding as against the applicant Nos.4 and 5 is nothing but an abuse of process of law.

8. In view of the above, following order is passed.

O R D E R

- (i) The application of applicant No.4 - Nandkumar s/o Machindra Gojame and applicant No.5 is allowed in terms of prayer Clause "B".
- (ii) The Application of applicant Nos.1 to 3 stands rejected.
- (iii) Rule is made partly absolute in those terms.

[K.L. WADANE]
JUDGE

[T.V. NALAWADE]
JUDGE