

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1243 OF 2018

- 1) Kishor s/o shaligram Kadam,
Age 36 years, Occupation Service,
 - 2) Kalabai w/o Shaligram Kadam,
Age 55 years, Occupation Household,
Both R/o Savkheda Tq. Amalner
Dist. Jalgaon.
 - 3) Rajeshree w/o Shivaji Borse,
Age 32 years, Occupation Household,
R/o Karjan Tq. Dist. Baroda (Gujrat).
 - 4) Suryakant s/o Shaligram Kadam,
Age 27 years, Occupation Service³ (Pvt.
Job), R/o Savkheda Tq. Amalner
Dist. Jalgaon.
At Present R/o. B-3/8, SKF Colony,
Chinchwad, Pune – 411 033.
 - 5) Nalini w/o Ganesh Sawant,
Age 39 years, Occuaption Household,
R/o Nampur Tq. Satana Dist. Baglan
Nashik.
 - 6) Jaishree w/o Walmik Sonawane,
Age 34 years, Occupation Household,
R/o Shivshakti Society, Chittod Road,
Dhule Tq. Dist. Dhule.
- ...Applicants

Versus

- 1) The State of Maharashtra
Through the Investigation Officer,
Police Station Amalner
Dist. Jalgaon.

- 2) Yogeshwari w/o Kishor Kadam,
Age 22 years, Occupation Household,
R/o Sai Apartment, Wing – A, Room
No.202, Haji Malang Road, Kalyan East
Dist. Thane.
At Present R/o Savkheda Tq. Amalner
Dist. Jalgaon.

...Respondents

Mr. Amol S. Sawant, Advocate for applicants.

Ms. P. V. Diggikar, Addl. Public Prosecutor, for respondent No.1
/ State.

Mr. P. H. Patil, Advocate for respondent No.2 (Appointed).

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

DATE : 04-10-2018.

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

1. At the outset, learned Advocate for the applicants seeks permission to withdraw the application to the extent of applicants no.1, 2 and 4.
2. Permission granted. The application stands disposed of as withdrawn to the extent of applicants no.1, 2 and 4.
3. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.
4. 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. 43 of 2018 dt. 20-02-2018, registered with Amalner Police Station, Dist. Jalgaon, for the offences punishable under Section 498-A, 406, 377, 312, 354, 354 C, 323, 504, 506 read with 34 of the Indian Penal Code.

5. Respondent No.2 got married to applicant No.1 on 19-05-2014 at Amalner, Dist. Jalgaon. Applicant No.1 is the husband of respondent No.2, applicants No. 3 is the mother of applicant No.1, and applicants No.4 is brother of applicant No.1 and applicant No. 3, 5 and 6 are the sisters of applicant No.1.

6. Respondent No.2 – informant has contended that, her father had given dowry of Rs.3,50,000/- as well as gold ornaments at the time of marriage . After marriage she went to Savkheda, Tal. Amalner, Dist. Jalgaon at her matrimonial house to cohabit with her husband. Her husband was residing with applicants No. 2 to 4. She was treated properly for about 1-2 months. Applicant No. 1 used to come to house after consuming liquor since August 2014. There used to be disputes between her and applicant No. 1 on that count. He used to utter under the influence of liquor that he has married with her only for money. He used to say that her father has not given proper gifts and honour to them at the time of marriage. He had unnatural sex with her when they had gone to Mahabaleshwar. When she had refused, she was threatened. Applicant No. 4 was not

married. He used to take her photographs from time to time and used to see towards her with ill-intention. He used to do obscene acts. She used to sustain the harassment in hope that situation will change. Applicant No. 1 and 3 used to give her pinching words, abuse and assault her. She was required to undergo abortion in Dr. Prasanna Joshi hospital, Amalner on 02-12-2015 and second at the same hospital, due to severe beating. Applicant No. 1 to 3 were demanding amount of Rs.10 lakhs. When she refused, she was abused and beaten. It was insisted to her, when she was pregnant that she should have only son. She was harassed physically and mentally when she was pregnant on third time. She delivered daughter on 03-04-2017. Applicants told her that she should look after the daughter herself, as female child is begotten. Again the demand of Rs.10 lakhs was made for purchasing house. She was not taken for cohabitation. She made efforts to resume cohabitation, but in vain. Her ornaments have been taken away by the applicants. Therefore, she has lodged the report.

7. The applicants have contended that, they had given Stridhan to informant at the time of marriage in the form of gold Mangalsutra, necklace, bangles, ring, etc. After some days she started quarreling on petty issues. She was not habituated to stay in rural area and also in the joint family. She used to insult them. Applicants were under the impression that she would come back for cohabitation

after birth of the child. However, she did not return. Applicant No. 1 has filed petition under Section 9 of Hindu Marriage Act, to bring her back. The allegations in the FIR are concocted and false. Applicant No. 4 is residing at Chinchwad, Pune in connection with his job with AEIFOROS Technologies Pvt. Ltd. The three married sisters are residing at Baroda, Gujrat State, Satana (Nasik) and Borvahir (Dhule) respectively, at their matrimonial homes. Therefore, they have prayed for quashment of the proceeding.

8. Heard learned Advocate Mr. A. S. Sawant appearing on behalf of applicants, learned Addl. Public Prosecutor Ms. P. V. Diggikar and learned Advocate Mr. P. H. Patil, appointed for respondent No.2. 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.1, 2 and 4, he prayed for withdrawal of the application as against them.

9. The application was considered only for the allegations against the married sisters-in-law applicant No. 3, 5 and 6. No specific role has been attributed against applicant No. 5 and 6 in respect of offence under Section 498-A of the Indian Penal Code. It has been stated that at the time of marriage of informant with applicant No. 1, applicant No. 3 used to reside with them. However, it is to be noted that FIR contends that applicant No. 3 was married even prior to the marriage between informant and applicant No. 1. Question is why

she would reside with her mother after marriage? No specific reason has been given in the FIR for the stay of applicant No. 3 with her mother. It has been alleged that applicant No. 3 had assaulted and ill-treated informant, when she was pregnant. When there is no possibility of stay of applicant No. 3 with applicant No. 1 and 2, then those allegations appears to be made with malafide intention. It is stated that all the applicants had made demand of amount. If at all there would have been a demand it would have been mainly by the husband and mother-in-law. The perusal of the entire FIR would show that all them applicants had made the demand in chorus which is not possible when elders are there. Nothing was demanded by applicants No. 3, 5 and 6 for themselves as per the allegations in the FIR itself. Further, applicants No.5 and 6 have produced on record documents showing that they are permanent resident other place, than the matrimonial home of informant. So, it appears that, as a routine all the relatives of the husband have been roped. Statements of the witnesses, recorded up till now also show the same thing. Statements of only relatives of informant has been recorded up till now. It would be the futile exercise to ask applicant No. 3, 5 and 6 to face the trial. Under such circumstance relief is required to be granted to the applicants No. 3, 5 and 6 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) The application of applicant No. 1, 2 and 4 is disposed as withdrawn.
- 2) Application of applicants No. 3, 5 and 6 is hereby allowed.
- 3) Relief is granted in terms of prayer clause "B" to the applicants No. 3, 5 and 6 only.
- 4) The fees of the appointed Advocate is quantified at Rs.3,000/- (Rupees Three Thousand Only), which is to be paid through High Court Legal Services Authority, Sub-Committee, Aurangabad.
- 5) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.