

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1358 OF 2018

1. Suresh S/o Ambadas Barde, Aged 38 Years, Occ. Service [Assistant Teacher] at Z.P. Primary School, Zkhandal, Taluka Vaijapur, District Aurangabad **APPLICANTS**
2. Ambadas S/o Laxman Barde, Aged 72 Yrs, Occ. Pensioner, R/o. Khandoba Nagar, Savgaon, District Ahmadnagar
3. Sachin S/o Ambadas Barde, Aged 35 Yrs, Occ. Private Service in Shreya Life Science Pvt. Ltd., R/o. G-19, G.No.22, Sai Shraddha Park, Ko-Wadgaon, Taluka and District Aurangabad
4. Madhavi W/o Sachin Barde, Aged 30 Yrs, Occ. Household, R/o. As above

V E R S U S

1. The State of Maharashtra, Through Sevgaon Police Station, District Ahemadnagar **RESPONDENTS**
2. Sarika W/o Suresh Barde, Aged 35 Years, Occ. Service as Asst. Teacher at village Rahatgaon, Tq. Paithan, District Aurangabad, R/o. C/o Badrinath Bhaurao Sirwat, Gotdawary Colony, Gasrden Road, Rahatgaon, Taluka Paithan District Aurangabad

Mr. B.A. Dhengle, Advocate for the applicants
Mr. S.J. Salgare, A.P.P. for respondent No.1
Mr. H.T. Gaikwad, Advocate for respondent No.2

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

DATE : 31st AUGUST, 2018

ORAL JUDGMENT [PER: T.V. NALAWADE, J.] :

Rule. Rule made returnable forthwith. By consent of both the sides, this application is taken up for final hearing. Heard both the sides.

2. The proceeding is filed under Section 482 of the Code of Criminal Procedure for relief of quashing of First Information Report bearing Crime No.86/2018, registered with Police Station Sevgaon, for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

3. The F.I.R. is given by respondent No.2-Sarika, who is wife of applicant No.1-Suresh. Applicant No.2-Ambadas is the father of applicant No.1 and applicant No.3-Sachin is brother of applicant No.1. Applicant No.4-Madhavi is the wife of applicant No.3.

4. The allegations made in the F.I.R. show that both the husband and wife were working as Teacher, but in different schools. They have one son, aged about 7 years.

5. As per the contention of the wife, she had cohabited with her husband at Shevgaon for a period of four years. The allegations are made by the wife that when she was in service at village Pimpalwadi, Taluka Paithan, she used to come home late, and due to that, her husband and relatives were harassing her. The allegations are made that the relatives of the husband were instigating her husband for giving ill-treatment to her. It is contended that only due to instigation of father, her husband had filed a divorce proceeding. The divorce proceeding was dismissed, and after that, the parties had settled the dispute. In the proceeding filed under Section 9 of the Hindu Marriage Act by the wife for restitution of conjugal rights, they agreed to settle the dispute. It is contended that while she was in service, she used to go to her husband at Shevgaon. It is her contention that on 10.12.2017, when she went to Shevgaon, her husband and father-in-law said that she should not come to Shevgaon as they did not want to keep relations with her. It is contended that, even after that, she tried to convince the applicants to settle the dispute, but they did not give response, and so, she decided to approach the

police.

6. The submissions made and the record show that the applicant Nos.3 and 4 are living separate at Wadgaon, Taluka and District Aurangabad and such evidence was given by the wife in the proceeding filed for restitution of conjugal rights. One document dated 01.02.2018 is produced on record to show that in H.M.P. No.135/2015 filed by the wife, the terms of settlement were filed and it was decided to take house on rent basis at Paithan and stay there. The husband was expected to visit the house from Paithan. They were expected to take steps to take the same station by getting transfer orders.

7. The submissions made and the record show that the husband was employed at Vaijapur. Paithan is the native place of parents of his wife. Thus, admittedly there is dispute between husband and wife, and even after settling the dispute many times, the wife has some grievance. In view of nature of allegations and the nature of dispute, this Court holds that the relief needs to be granted in favour of relatives of the husband like applicant Nos.2 to 4 though relief cannot be granted in favour of applicant No.1/husband.

8. In the result, application of applicant No.1 is rejected. Application of applicant Nos.2 to 4 is

allowed. The relief is granted to applicant Nos.2 to 4 in terms of prayer clause "B". Rule is made absolute in those terms.

[SMT.VIBHA KANKANWADI,J.]

[T.V. NALAWADE, J.]