

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

CRIMINAL APPLICATION NO. 2975 OF 2014

1. Shaikh Mohammad Gaus s/o Maheboob
Sahab, Age 38 years, Occu: Electric Labour
R/o Dilipsing Colony, Vazirabad, Nanded
2. Bismillabi w/o Maheboob Sahab
Age 60 years, Occu: Household
R/o Dilipsing Colony, Vazirabad, Nanded
3. Shaikh Maheboob Sahab s/o Sk. Maula,
Age 65 years, Occu: Nil,
R/o Dilipsing Colony, Vazirabad, Nanded
4. Shamim Begum w/o Sayyed Ejaj
Age 43 years, Occu: Household
R/o Shrinagar, Nanded
5. Shaheda Begum w/o Mainoddin
Age 40 years, Occu: Household,
R/o Umri, Tq. Umri Dist.Nanded
6. Shabana Begum w/o Shaikh Nazir
Age 35 years, Occu: Household,
R/o Pakistan Mohalla, Parli,
Taluka Parali Dist. Beed
7. Rehana Begum w/o Shaikh Rahim
Age 33 years, Occu: Household
R/o Degloor, Dist. Nanded
8. Noorjahan Begum w/o Sk. Shadul,
Age 30 years, Occu: Household
R/o Bhokar, Tq. Bhokar
Dist. Nanded

... Applicants

9. Najema Begum w/o Sk. Nasir,
Age 28 years, Occu: Household
R/o Dharmabad Dist. Nanded
10. Sayyed Ejaj s/o Syeed Janimiya

age 48 years, Occu: Tailoring
R/o Shrinagar Tq. & Dist. Nanded

- 11 Sk. Rahim Sk. Aziz
Age 35 years, Occu: Rikshaw Driver,
R/op Degloor, Tq. Degloor,
Dist. Nanded.

VERSUS

1. The State of Maharashtra
2. The Police Station Incharge,
Kotwali Police Station, Parbhani.
3. Parveen Begum w/o Mohd Gaus
Age 33 years, Occu: Household
R/o c/o Sk. Yunusmiya, Parwa Gate,
Haji Hamid Colony, Parbhani.

Respondents
... (Resp. No. 3 orig.
complainant)

Mr. N. K. Kakade, Advocate for the applicants
Mrs. P. V. Diggikar, APP for the respondent State.
Mr. J. M. Murkute, Advocate for respondent No.3

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

DATE: : 3rd August, 2018

JUDGMENT (Per K. L. Wadane, J.):

1. The application is filed under Section 482 of the Code of Criminal Procedure for relief of quashing of the charge-sheet bearing RCC No. 386/2014 dated 24.07.2014, pending before the JMFC, Parbhani pursuant to Crime No. I-41 of 2014 registered against the applicants with Kotwali Police Station, Parbhani for the offences punishable under Sections

498-A, 323, 504, 506 r/w 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

2. Respondent No.3 Parveen Begum/original complainant lodged complaint before the Chief Judicial Magistrate, Parbhani and the same was converted into the FIR. The complainant has alleged that she was married to Mohammad Gous, 16 years back and has a child from the said wedlock. After marriage started living with her husband and in-laws at her matrimonial home at Nanded. It is alleged that she was treated well by accused/applicants initially for some days. Thereafter, the accused have started illtreating, torturing, insulting and harassing the complainant. The applicants were avoiding to provide medical treatment to the complainant. The applicants have asked the complainant to bring rupees one lakh for the purpose of opening shop for her husband and in pursuance to the demand, husband of the complainant and other accused persons/applicants started ill-treating the complainant, they used to beat her and harass her physically and mentally and some times she was kept without food and as the demand was not fulfilled, she was thrown out of matrimonial house. It is alleged that the applicants/accused persons, thereafter, came to the house of the parents of the complainant in a jeep and have abused and assaulted the complainant. With these allegations, first information report bearing Crime No. I-41/2014 came to be registered with Kotwali Police Station, Parbhani, against the accused

persons for the offence referred above.

3. Heard Mr. Kakade, learned counsel for the applicants, Mrs. Diggikar, learned APP for the respondent State and Mr. Murkute, learned counsel for respondent No.3/original complainant.

4. During investigation, the Investigating Officer has recorded statements of various witnesses and submitted the charge-sheet. We have perused the statements of witnesses recorded by the investigating officer. Statement of all these witnesses are in line with the contents of the first information report are reproduced in the statements of the witnesses.

5. On perusal of the contents of the first information report it appears that there are allegations of demand of money, ill-treatment and harassment and assault by the applicants. Looking to the nature of allegations mentioned in the FIR one can understand about the allegations against the husband, mother-in-law and father-in-law of the complainant. Application of applicant No.1/husband is already disposed of on 17.06.2014 as not pressed. Applicant Nos. 2 and 3 are mother-in-law and father-in-law respectively of the complainant, residing together at Vazirabad, Nanded, matrimonial home of the complainant. Instances of harassment are given in the FIR. In view of nature of allegations, we are not inclined to exercise discretion in respect of applicant Nos. 2 and 3.

6. So far as applicant Nos. 4 to 9 are concerned, from the record, it appears that they are married sisters of applicant No. 1 husband and applicant No. 11 is the husband of applicant No. 7. They all are residing separately at their respective places. Their residential addresses are mentioned in the cause title of the application and the same is not denied by the complainant. Applicant No. 4 Shamim Begum is residing at Shrinagar Dist. Nanded, applicant No. 5 Shaheda Begum is residing at Umri Dist. Nanded, applicant No. 6 Shabana Begum is residing at Parli Dist. Beed, applicant Nos. 7 to 11 are residing at Degloor, Dist. Nanded and applicant No. 8 is residing at Bhokar Dist. Nanded, away from the matrimonial home of the complainant. There was no occasion for applicant Nos. 4 to 9 and 11 to harass the complainant on the grounds stated in the FIR and they have no direct concern with the family affairs of applicant Nos. 1 to 3 and complainant.

7. In order to lodge a proper complaint, mere mention of the sections and the language of those sections is not sufficient. Particular of offence committed by each accused and role played by them in committing that offence needs to be stated. All family members of the accused husband are roped in the offence. It appears that applicant Nos. 4 to 9 and 11 are residing separately. Allegations against these applicants in the first information report are vague and general in nature. On its face, the complaint does not constitute any offence against applicant Nos. 4 to 9 and 11. Nothing

can be achieved if criminal proceedings are allowed to be continued against these applicants. Therefore, we found considerable force in the argument of Mr. Kakade, learned counsel for the applicants for quashing the FIR to the extent of the applicant Nos. 4 to 9 and 11.

8. In view of the above, in order to prevent the abuse of process of law, we find that discretion needs to be exercised in respect of applicant Nos.4 to 9 and 11. Hence, following order.

O R D E R

- i. Application of Applicant Nos. 4 to 9 and 11 is allowed.
- ii. Relief is granted to Applicant Nos. 4 to 9 and 11 in terms of prayer clause (B-1). Rule is made absolute in respect of applicant Nos. 4 to 9 and 11.
- iii. Application of Applicant No.1 is already disposed of on 17.06.2014 as not pressed. Application of Applicant No.10 is disposed of as abated.
- iv. Application of Applicant Nos. 2 and 3, parents of the husband namely Bismillabi and Shaikh Maheboob is dismissed. Rule is discharged in respect of Applicant Nos. 2 and 3.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC