

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

**Criminal Application No.2808 of 2015
With
Criminal Application No.1524 of 2018**

- 1) Abhijeet s/o. Ashok Deshmukh,
Age 29 years,
Occupation: Service.
- 2) Aruna w/o Ashok Deshmukh,
Age 48 years,
Occupation: Household.
- 3) Ashok s/o Genda Deshmukh,
Age 55 years,
Occupation: Service.
- 4) Rajnikant s/o Ashok Deshmukh,
Age 32 years,
Occupation: Service.
- 5) Sandip s/o Ashok Deshmukh,
Age 27 years,
Occupation: Service.
- 6) Snehal w/o Rajnikant Deshmukh,
Age 26 years,
Occupation: Household.
All R/o Shivajinagar, Kalwan,
Taluka Kalwan, District Nashik. .. **Applicants.**

Versus

- 1) The State of Maharashtra,
Through Inspector,
Dhule Taluka Police Station,
District Dhule.

- 2) Vaishali Abhijeet Deshmukh,
Age 26 years,
Occupation: Household,
R/o C/o Pundlik Bhatu Sonawane,
R/o Ner, Taluka & District Dhule. .. **Respondents.**

Shri. Bharat R Waramaa, Advocate, for applicants .

Shri. P.G. Borade, Additional Public Prosecutor, for
respondent No.1.

Shri. Nilesh N. Desale, Advocate, for respondent No.2.

**Coram: T.V. NALAWADE &
K.L. WADANE, JJ.**

Date: 11 JUNE 2018

JUDGMENT (Per T.V. Nalawade, J.):

1) Rule, rule made returnable forthwith. By
consent, heard both sides for final disposal.

2) Criminal Application No.2808/2015 is filed
under section 482 of the Code of Criminal Procedure for
relief of quashing of F.I.R.No.66/2015 registered with
Dhule Taluka Police Station, Dhule for offences punishable
under sections 498A, 406, 420, 468, 504 etc. read with
section 34 of Indian Penal Code and for quashing of the
charge sheet filed which is given R.C.C. No.290/2015 in

the Court of the Judicial Magistrate, First Class, Dhule.
Both the sides are heard.

3) The first informant is the wife of applicant No.1 Abhijeet Deshmukh. Applicant No.2 is mother of applicant No.1 and applicant No.3 is husband of applicant No.2. Applicant No.4 is the brother of applicant No.1 Abhijeet and he is elder brother. Applicant No.5 is younger brother of applicant No.1 and applicant No.6 is the wife of applicant No.4.

4) In the F.I.R. given by the wife of applicant No.1 she has contended that she was given in marriage on 6-6-2014 to applicant No.1 and the expenses of the marriage were borne by her parents. It is her contention that by way of dowry amount of Rs.8.5 lakh was given and also so many gold and silver ornament were given in the marriage. It is her case that after the marriage she started cohabiting with applicant No.1 at Kalwan where the remaining applicant were living in joint family. The report was given on 23-3-2015, within one year of the marriage and no issue is born out of the marriage.

5) It is the case of the wife that after 3 months of the marriage the present applicants started taking suspicion about her character by saying that she was receiving calls of some persons. It is her contention that after some time they started asking her to bring Rs.5 lakh as they wanted to purchase a flat in Mumbai. It is contended that the parents could not meet this demand and so ill-treatment was started to her.

6) It is the case of the wife that on 6-2-2015 when she was at Kalwan the applicants called her father and cousin Lakshdeep and they made false allegation about her character and they gave threats to her father and under the threats they obtained signatures of her father and of her on a stamp which was notarised before Advocate Bachav. It is her contention that by using that document, applicant No.1 is trying to take divorce from her. It is her contention that on 15-3-2015 she was driven out the house out of the aforesaid suspicion and then she returned to Ner, the place of her parents and she has been living there since then.

7) It is the case of the wife that on 22-3-2015 at about 11.00 a.m. applicant Nos.2 to 6 came to her village at the instigation given by applicant No.1 and they picked up quarrel and they asked her to sign on one more stamp paper. It is contended that she refused to sign on it and then they left the place.

8) During investigation, statements of some relatives on parents' side of the wife are recorded. The statements of some neighbours of her father are also recorded. The document which was allegedly got executed on 6-2-2015 is seized by police and it was produced by the husband.

9) The learned counsel for the applicants took this Court through the record of one proceeding filed by the wife under section 125 of the Cr.P.C. Some record is produced along with second application in the present proceeding. It is not disputed that on one document, in which the wife has admitted that her character was not good, there are signatures of the wife and also of her father. This circumstance is admitted in the application

filed by the wife. The relevant material and the statement of the Notary Public are not supporting the wife. Learned counsel for the applicants placed reliance on some observations made by the Apex Court in the cases reported as **AIR 1997 SC 1448 (Guru Bipin Singh v. Chongthammanihar Singh)** and, **2010 AIRSCW 405 (Md. Ibrahim v. State of Bihar)** and submitted that the allegations as they are, cannot constitute offence under section 467 or 420 of IPC in respect of the aforesaid document. The submissions made by the other side show that the husband has filed a divorce proceeding. The learned counsel for the applicants submitted that even as per the contentions and the address given, only the husband is living in Mumbai and at the most his permanent place of residence is Kalwan, District Nashik. It was submitted that at the most it can be presumed that parents of the husband were living in joint family with the husband. The submissions made and the record show that the husband had contended that his elder brother was with him in the present dispute. Due to these circumstance it cannot be said that applicant No.4, Rajnikant is not involved in the matter. However, in view

of the nature of allegations and the way in which things work in our society it cannot be said that the wife of Rajnikant had any voice in the aforesaid dispute and the younger brother of the husband had also any say or voice in the dispute in the matter. The younger brother was receiving education and now he is in service. Possibility of false implication is there. This Court holds that it will be misuse of process of law if the prosecution is allowed to go on as against applicant Nos.5 and 6. However, that cannot be said in respect of applicant Nos.1 to 4 in view of nature of allegations and the material. The contentions made by the learned counsel for the applicants with regard to admission of improper conduct of the wife given in the document cannot be considered in the present proceeding. To this document, the applicant Nos.5 and 6 were not party. In view of these circumstances this Court holds that, relief can be granted only in favour of applicant Nos.5 and 6. In the result, following order.

10) Criminal Application No.2808 of 2015 is allowed only to the extent of applicant No.5 - Sandip Ashok Deshmukh and applicant No.6 - Snehal Rajnikant

Deshmukh. The charge sheet filed in F.I.R. No.66/2015 registered with Dhule Taluka Police Station in the Court of the Judicial Magistrate, First Class Dhule against these two applicants for offences punishable under sections 498-A, 420, 468, 406, 323, 504, 506, 34 of Indian Penal Code is hereby quashed and set aside. Relief is granted only to that extent. The application of applicant Nos.1 to 4 stands rejected. Rule is made absolute in aforesaid terms. Criminal Application No.1524/2018 is disposed of.

Sd/-
(K.L. WADANE, J.)

Sd/-
(T.V. NALAWADE, J.)

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