

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1527 OF 2018

- 1) Sushila Appasaheb Popale,
(Mother-in-law)
Age 47 years, Occupation Household,
R/o A-p Padali, Padali Shirur Kasar,
Beed Tq. Dist. Beed.
- 2) Appasaheb Eknath Popale,
(Father-in-law)
Age 57 years, Occupation Service,
R/o A-p Padali, Padali Shirur Kasar,
Beed Tq. Dist. Beed.
- 3) Sandip Appasaheb Popale,
(Brother-in-law)
Age 32 years, Occupation Service,
A-p Padali, Padali Shirur Kasar,
Beed Tq. Dist. Beed.
- 4) Lahu Appashaeb Popale,
(Brother-in-law)
Age 28 years, Occupation Advocate,
R/o Sant Namdeo Nagar, Dhanora Road,
Beed Tq. Dist. Beed.
- 5) Shital Sandip Popale,
(Brother-in-law's wife)
Age 23 years, Occupation Household,
R/o Venturi, Ashti
Tq. Ashti Dist. Beed.
- 6) Anita Appasaheb Popale,
(sister-in-law)
Age 32 years, Occupation Household,
R/o A-p Padali, Padali Shirur Kasar,
Beed Tq. Dist. Beed.
Presently Residing At :
A-p Devadaithan Tq. Jamkhed
Dist. Ahmednagar.

- 7) Ashok Shrirang Ghodke,
Age 47 years, Occupation Labour,
R/o Velturi, Ashti Tq.Ashti
Dist. Beed. ...Applicants

Versus

- 1) The State of Maharashtra,
Through : Shivajinagar Police Station,
Beed Tq. Dist. Beed.
- 2) Ashiwini d/o Vikram Sonwal,
Age 22 years, Occupation Household,
R/o Limbarui (Devi) Tq. Dist. Beed. ...Respondents

Mr. C. V. Dharurkar, Advocate for applicants.

Ms. v. s. Choudhary, Addl. Public Prosecutor, for respondent
No.1 / State.

Ms. S. P. Kakade (Matkar), Advocate for respondent No.2.

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

DATE : 31-08-2018.

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

1. Present application has been filed under Section 482 of Code of Criminal Procedure for quashing First Information Report (FIR) lodged by respondent No.2 with Shivaji Nagar Police Station, Beed Dist. Beed vide Crime No. 307 of 2018, dated 14-05-2018 for the offences punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

2. Applicant No.1 is the mother-in-law, applicant No.2 is father-in-law, applicants No.3 and 4 are the brother-in-laws, applicant No.6

is sister-in-law of respondent No.2 – original informant. Applicant No.5 is the wife of applicant No.3. During the pendency of this application a statement has been made that, she has expired. Applicant No.7 is the maternal father-in-law.

3. The informant had contended that, she got married to Ankush Appasaheb Popale on 12-07-2017. At the time of marriage dowry of Rs.1 lakh and household articles were given. She was treated properly for about one month after the marriage. But thereafter all the accused persons started harassing her. After one month of marriage her husband started saying that, she should bring amount of Rs.2.50 lakh for construction of house from her father. She told that, her father is poor and cannot afford to give that much amount. At that time all the relatives of the husband told that, they would perform second marriage of the husband and if she is unable to bring the amount, she should not stay with them. She did not disclose it to her parents and resided for about four months in hope that she would be treated properly. However, all the accused persons continued to harass her. She went to her parental house on 05-01-2018. The persons at her husband's house told her that, she should not return till she brings amount. She had disclosed this fact to her parents and relatives. Her relatives had talked on phone with the relatives of her husband, and thereafter, she was left at her matrimonial home. On the same day, the accused persons started

harassing her. Her husband used to assault and abuse her under the influence of liquor. The mother-in-law and sister-in-law used to instigate him by saying that, he should leave her and perform second marriage. She lodged a complaint with Mahila Takrar Nivaran Kaksha, Beed in March 2018. However, there was no compromise and therefore she has lodged the report. On the basis of her said report offence under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code came to be registered.

4. The applicants have come with a case that, after the marriage Ankush was residing with his mother, two brothers and sister-in-law. However respondent No.2 started picking quarrels with them, and therefore the mother-in-law left the abode and went to village Padali Tq. Shirur Kasar. Thereafter, applicants No.3 and 5 also left the said house and only Ankush, applicant No.4 and respondent No.2 were the persons left in the said house. Applicant No.4 is lawyer by profession and therefore used to remain out of the house since morning. It is also stated that, the father of the husband is serving as bailiff with Civil Court and at the relevant time he was posted at Shirur Kasar. They have stated that, they have been implicated falsely. The applicants have also contended that, accused Ankush has filed petition for divorce before Civil Judge Senior Division, Beed. Respondent No.2 had love affair with Somnath Kisan Shankh, she had no intention to cohabit with Ankush, even he has been made

respondent in the petition under Hindu Marriage Act. Said Somnath has been served in the matter but he has not caused his appearance. Therefore, the matter had proceeded ex-parte even against respondent No.2.

5. It is submitted that, when respondent No.2 was unwell her husband had taken her on 16-12-2017 to District Hospital for check up. Sonography was performed. It was revealed that, respondent No.2 was carrying the fetus of seven weeks and one day old. However, after Ankush had filed petition for divorce, it was reliably learnt by them that respondent No.2 has got herself aborted. He has tried to collect information from the Government Hospital, however that information was not supplied. It is also stated that, applicant No.6 is married in 2008 with one Keshav Lavalkar and she resides at Devdaithan Tq. Jamkhed Dist. Ahmednagar.

6. Heard Mr. C. V. Dharurkar, learned advocate appearing on behalf of applicants, Ms. V. S. Choudhary, learned Addl. Public Prosecutor and Ms. S. P. Kakade (Matkar), learned advocate appearing on behalf of respondent No.2. Perused the documents. In order to cut short it can be stated that, all the learned advocates have argued in support of their respective contentions.

7. The contents of the FIR would show that, only omnibus statements have been made as regards the present applicants are

concerned. The husband is not a party in this proceeding. Main allegations are against him. Allegations as against applicants No.1 and 5 are that, that they had instigated the husband. However it is to be noted that, as per the residence proof of applicant No.1, she resides at Padali since 2013. Applicant No.2 also resides at Padali. The orders of District and Sessions Court, Beed would show that, he was serving as Bailiff with Civil Court, Shirur Kasar. Applicant No.3 is also resident of Padali. Applicant No.6 resides at Devdaithan Tq. Jamkhed Dist. Ahmednagar. Applicant No.7 resides at Velturi Ashti Tq. Ashti Dist. Beed. It only appears that applicant No.4 resides in Beed i.e. the matrimonial home. However, the contents of the FIR would show that, there are no specific allegations against him. Under such circumstance it would be unjust to ask all the applicants to face the trial in view of the decision in *Preeti Gupta and Another Vs. State of Jharkhand and Another*, reported in 2010 AIR SCW 4975 and *State of Haryana Versus Ch. Bhajan Lal*, reported in 1992 SCC (Cri) 426. Case is made out to quash the FIR, hence following order.

ORDER

- 1) Application is allowed in terms of prayer Clause "C".
- 2) Rule made absolute in those terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.