

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

CRIMINAL APPLICATION NO. 2941 OF 2015

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| <p>1. Vishwanath s/o Maroti Dadge,
Age : 75 years, Occu: Pensioner & Agri.
R/o Aurad (Shahajani) Tq. Nilanga,
District Latur</p> <p>2. Ajay s/o Vishwanath Dadge.
Age 50 years, Occu: Service,
R/o Rachana colony, Manwat,
District Parbhani</p> <p>3. Sau. Meena w/o Ajay Dadge
Age 45 years, Occu: Household
R/o Rachana colony, Manwat,
District Parbhani</p> <p>4. Sua. Kavita w/o Vitthal Hulsure,
Age 40 years, Occu: Service & HH
R/o Vijaynagar, Bidar Road,
Udgir, Tq. Udgir, Dist. Latur</p> <p>5. Vittal s/o Tukaram Hulsure,
Age 48 years, Occu: Service,
R/o Vijaynagar, Bidar Road,
Udgir, Tq. Udgir, Dist. Latur</p> | <p>... Applicants
Original accused</p> |
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VERSUS

1. The State of Maharashtra,
Through Police Station Officer,
Police Station Aurad (Shahajani)
Tq. Nilanga, Dist. Latur
2. Sau. Soniya w/o Vikram Dadge,
Age 45 years, Occu: Househod
R/o aurad (Shahajani), Tq. Nilanga,
At present r/o Anand Nagar, Nilanga, Dist. ...

Latur

Respondents

Mr. H. V. Patil, Advocate for the Applicants.

Mrs. D. S. Jape, APP for Respondent No. 1 – State.

Mr. G. B. Paturkar h/for Mr. S. M. Vibhute, Advocate for respondent No.2.

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

DATE: : 7th August, 2018

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

1. The applicants/original accused have filed this application under section 482 of the Criminal Procedure Code challenging the first information report bearing Crime No. 22/2015 registered with Police Station Aurad (Shahajani), District Latur for the offence punishable under Section 498 A, 323, 504, 506 and section 34 of the Indian Penal Code and prays for quashing the same.

2. Respondent No. 2– original complainant lodged complaint with the police station on 08.05.2015 alleging that she was married with one Vikram Vishwanath Dandge in the year 1997 and she has two children from the said wedlock. After marriage she was residing with her husband at Mumbai. She resided with her husband peacefully till the year 2010. It is alleged that in the year 2001 her husband demanded a motorcycle from the parents of the complainant in a function which was organized while she was pregnant and as the demand was not fulfilled her husband started ill-treating and beating the complainant. Thereafter, her husband sold ornaments of

the complainant and demanded an amount of Rs.50,000/- from the parents of the complainant for purchasing flat at Mumbai. It is alleged that as the demand of money was not fulfilled, she was thrown out of house and threatened her that unless the money is brought, she should not come back. Thereafter she was residing with her parents at Nilanga. However her husband did not come to take her back even after one and half year. It is alleged that thereafter she went to Aurad (Shahajani), where her father in law Vishwanath Dandge, brother-in-law Ajay and his wife Mina, Sister-in-law Kavati and her husband Vitthal Hulsure, the present applicants have harassed the complainant physically and mentally saying that as to why she is not fulfilling the demand of her husband and she was kept without food. Thereafter father of complainant taken the complainant to her husband at Miraroad, Mumbai on 09.07.2012, where her husband was found with one lady and he told the complainant that she will not be allowed to enter the house unless Rs. two lakhs is paid. With these allegations, the offence as referred above came to be registered against the accused persons including the applicants.

3. We have heard learned counsel Mr. H.V. Patil, for the applicants, Mrs. D. S. Jape, learned APP for the Respondent No. 1 – State and Mr. Mr. G. B. Paturkar learned counsel appearing for respondent No.2.

4. On perusal of the contents of the first information report it

appears that specific allegation of ill-treatment and harassment and demand of money are made against the husband, who is not party to this application. There are specific allegations against the husband that he has harassed the complainant mentally and physically and was also demanding money from her parents. Instances of harassment are given in the F.I.R. The complainant was residing with her husband, daughter and son separately at Mumbai.

5. It appears that all family members and relatives of the husband appears to have been roped in the offence. Applicant No.1 is father-in-law of the complainant and he is residing at Aurad Shahajani. Applicant No.2 is brother of husband of the complainant and applicant No.3 is wife of applicant No.2 and they are residing at Manwat, Dist. Parbhani. Applicant No.4 is married sister of husband of the complainant and applicant No.5 is husband of applicant No.4. They are residing at Udgir. It appears that earlier, in respect of the same incident, the complainant approached the Women's Grievance Redressal Cell. The allegations in the first information report are not depicting in the said complaint. It is not specifically stated as to when the complainant had been to Aurad Sahajani where the applicants alleged to have harassed her. The applicants are residing separately at different places, away from the complainant and her husband. Residential address of the applicants mentioned in the cause title is not denied. Their election cards are produced on record. The complainant was residing with her husband at

Mumbai and there was no occasion for the applicants to harass or torture the complainant on the grounds stated in the FIR. They have no direct concern/nexus with the affairs of the complainant and her husband.

6. On perusal of the first information report, it appears that there is no material particular quoting any specific incident about ill-treatment or harassment against applicants as to attract ingredients of section 498-A of the Indian Penal Code. 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 applicants. Nothing can be achieved if criminal proceedings are allowed to be continued against the applicants. Therefore, we found considerable force in the argument of Mr. Patil learned counsel for the applicants for quashing the F.I.R. to the extent of the present applicants.

7. In view of the above, the continuation of the criminal proceeding against the present applicants is nothing but an abuse of process. Therefore, the application needs to be allowed and accordingly it is allowed in terms of prayer clause (B).

8. Rule is made absolute in the aforesaid terms.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC