

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2983 OF 2015

- 1) Anil s/o Tukaram Gade,
Age 33 years, Occupation Service,
R/o Room No. 308, Pusha Parag Society,
Govinda Hostel, In front of Sakal Press,
705, Budhwar Peth, Pune.
- 2) Tukaram s/o Madhavrao Gade,
Age 65 years, Occupation Agri.,
R/o Sambhaji Nagar, Latur,
Tq. Dist. Latur.
- 3) Smt. Kamal w/o Tukaram Gade,
Age 60 years, Occupation Household,
R/o as above.
- 4) Arun s/o Tukaram Gade,
Age 41 years, Occasional Business,
R/o as above.
- 5) Ashok s/o Tukaram Gade,
Age 35 years, Occupation Lawyer,
R/o F 52/2;4, Anandvan Co-operative
housing Soc. Sector 4, Nerul, Navi
Mumbai.
- 6) Shilpa w/o Arun Gade,
Age 35 years, Occupation Household,
R/o Sambhaji Nagar, Latur
Tq. Dist. Latur.

...Applicants

Versus

- 1) The State of Maharashtra
Through the Police Inspector,
Shivaji Nagar Police Station, Latur.
Tq. Dist. Latur.

- 2) Arpita @ Kalika w/o anil Gade,
Age 27 years, Occupation Household,
R/o At Present Peth,
Tq. Dist. Latur.

...Respondents

Mr. A. S. Deshpande, Advocate for applicants.

Mrs. D. S. Jape, Addl. Public Prosecutor, for respondent No.1 /
State.

Mr. T. M. Venjane h/f, Mr. S. P. Urgunde, Advocate for
respondent No.2.

CORAM : T. V. NALAWADE &

SMT.VIBHA KANKANWADI. JJ.

DATE : 10-10-2018.

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

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

2. Present application has been filed by original accused persons invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure in order to quash the First Information Report vide Crime No. 61 of 2015, registered with Shivaji Nagar Police Station, Latur, for the offences punishable under Section 498-A, 323, 504 read with 34 of the Indian Penal Code.

3. Respondent No.2 got married to applicant No.1 on 01-01-2013. Applicant No.1 is the husband of respondent No.2, applicants No.2 and 3 are the parents, and applicants No.4 and 5 are brothers

of applicant No.1. Applicant No.6 is the wife of applicant No.4.

4. Respondent No.2 – informant has contended that, at the time of marriage her father had given dowry, gold ornaments. Her father had incurred expenditure of Rs.15,50,000/-. After marriage she went to her matrimonial house to cohabit with her husband. She resided there for one month with them. Her husband thereafter started avoiding her on the pretext that there is physical defect in her. He created misunderstanding between her and in-laws. Thereafter, all the accused persons started harassing her physically and mentally. She had disclosed the ill-treatment to her parents and brother. Her relatives had tried to settle the dispute, but they were not ready. Her medical examination was got done under Court's order, but still they were not satisfied. She was driven out of the house on 30-3-2013, though her reports were normal and she had gone to cohabit with husband. Therefore, she has lodged the report.

5. The applicants have contended that, applicant No. 1 is a government servant. Applicant No. 1, 4 and 5 are residing separately. Applicant No. 5 is a practicing lawyer at Mumbai since 2004. It has been contended that applicant No. 1 had tried to consummate the marriage, but he found her mentally depressed. They lived merely for a period of three months. Thereafter, he was required to file an application under Section 12 (1) (a) of Hindu

Marriage Act for annulment of marriage. There is two years delay in lodging FIR. Said FIR is nothing but a counter blast to the petition filed by applicant No.1. It is based on false, concocted story and just to harass them. Details of the events have not been given and they have been kept as vague as possible. Therefore, they have prayed for quashment of the proceeding.

6. Heard learned Advocate Mr. A. S. Deshpande appearing on behalf of applicants, learned Addl. Public Prosecutor Mrs. D. S. Jape appearing on behalf of respondent No.1.

7. Perusal of FIR would show that no specific role has been attributed against applicant No. 4 to 6. Further the learned Advocate for applicants has placed on record copy of judgment in H. M. P. No. 19 of 2016 by learned Civil Judge Senior Division, Latur dated 20.07.2016. It was the petition under Section 13-B of Hindu Marriage Act. Applicant No. 1 and respondent No. 2 have parted their ways by taking divorce by mutual consent. A compromise is stated to have arrived at between them. In para No. 7 of the said judgment, it is specifically mentioned that wife has agreed to withdraw the complaint filed under Section 498A of Indian Penal Code. Though respondent No. 2 is not present before this Court, the said Court before whom the said statement was made had verified the terms of compromise. Nothing survives now between them. It

would be a futile exercise now to ask the applicants to face the trial. Under such circumstance relief is required to be granted to the applicants No.1 to 6 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) Application is hereby allowed.
- 2) Relief is granted in terms of prayer clause "B".
- 3) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.