

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

Criminal Application No.3101 of 2015

- 1) Alim Sk. s/o. Mohammad Hanif Sk,
Age 32 years,
Occupation : Driver,
R/o Abrar Colony, Satara,
Aurangabad.
- 2) Mohmad Hanif s/o Tareq Shaikh,
Age 70 years, Occupation: Nil,
R/o. Pratappurwadi,
Taluka Gangapur,
District Aurangabad.
- 3) Khafunbee Shaikh w/o Mohammad
Hanif,
Age 60 years, Occupation: Nil,
R/o Pratappurwadi,
Taluka Gangapur,
District Aurangabad.
- 4) Nazir Md. Hanif Shaikh,
Age 40 years,
Occupation: Agriculture,
R/o Gavali Dhanora,
Taluka Gangapur,
District Aurangabad.
- 5) Wazir Mohammad s/o. Hanif Shaikh,
Age 35 years,
Occupation: Agriculture.
R/o. Pratappurwadi,
Taluka Gangapur,
District Aurangabad.
- 6) Shaikh Malika w/o Yunus Shaikh,
Age 45 years, Occupation: Household,
R/o Mhaski, Taluka Vaijapur,
District Aurangabad,
At preset Silk Mill Colony, Aurangabad.

- 7) Nisar s/o. Isak Patel,
Age 29 years,
Occupation: Agriculture,
R/o Loni, Taluka Khultabad,
District Aurangabad.

.. Applicants.

Versus

- 1) The State of Maharashtra,
Through Investigation Officer,
Satara Police Station,
Taluka & District Aurangabad.
- 2) Jamila w/o. Alim Shaikh,
Age 27 years,
Occupation: Household,
R/o. Jamli, Taluka Paithan,
District Aurangabad.

.. Respondents.

Shri. Ravindra V. Gore, Advocate, for applicants.

Shri. S.J. Salgare, Additional Public Prosecutor, for
respondent No.1.

Shri. S.T. Yaseen, Advocate, for respondent No.2.

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

Date: 22 JUNE 2018

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

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

2) The application is filed under section 482 of the Code of Criminal Procedure for relief of quashing of Crime No.79/2015 registered with Satara Police Station, Aurangabad for offence punishable under section 498A read with 34 of the Indian Penal Code. The crime is registered on the basis of report given by wife of applicant No.1. Applicant No.1 has not pressed the proceeding and so his application is disposed of as withdrawn.

3) In the F.I.R. allegations are made by the first informant that after 5 years of the marriage ill-treatment was given to her by applicant Nos.1 to 7. Applicant No.2 is father of applicant No.1. Applicant No.3 is mother of the husband, applicant Nos.4 to 5 are the brothers of the husband. Applicant No.6 is sister of the husband and applicant No.7 is son of sister of the husband.

4) Allegations are made that the applicants were asking to leave the house as she was not bringing amount for construction of the house. She has contended that as her husband, applicant No.1 is working as a driver he shifted to Aksa Colony and she cohabited with husband at

Aksa Colony. She has made further allegations that the other applicants used to come to Aksa Colony and after coming there they used to give ill-treatment. The other allegations are made that from 2009 there was ill-treatment to her. So after 5 years of the marriage husband had shifted to Aksa colony and she was cohabiting with her husband at different place. Vague allegations are made that all other applicants, who are relatives of the husband, were coming to Aksa Colony for giving ill-treatment to her.

5) In the contentions of the first informant it is not disputed that other applicants were not living with husband. Further, record is produced by these applicants, which is in the form of Identify Cards issued by Election Commission and that record shows that they are living separate from applicant No.1. No specific incident is quoted by the wife about any incident in which the applicant nos.2 to 7 had given ill-treatment to her.

6) Learned counsels for both the sides placed reliance on the some observations made in the following reported cases in support of their rival contentions.

- (i) **(2009) 10 SCC 184 (Neelu Chopra v. Bharti)**
- (ii) **AIR 2001 SC 3253 (S.M. Datta v. State of Gujarat)**
- (iii) **AIR 1999 SC 1216 (Rajesh v. State NCT of Delhi)**
- (iv) **(2014) 3 SCC 383 (Bhaskar Lal Sharma v. Monica).**

7) In the case of Neelu (supra) the Apex Court has made observations that when crime is registered out of matrimonial dispute, specific allegation needs to be made against the relatives of the husband showing their exact role in the ill-treatment. If that is not done the Court can quash the proceeding as there is possibility of implication of all the relatives of the husband to pressurize that side. In the present matter also such possibility is there and as there are no specific allegations as against applicant Nos.2 to 7, this Court holds that relief needs to be granted to applicant Nos.2 to 7. In the result, the application is allowed. Relief is granted to applicant Nos.2 to 7 in terms of prayer clause (B). The proceeding can go on as against the husband. Rule made absolute in those terms.

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

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

rs1