

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1638 OF 2018

1) Sachin s/o Madhukar Patil,
Age 35 years, Occupation Service,
R/o Padmakar Colony, Near Maharashtra
Bank, Thakurli (E) Tq. Kalyan Dist.
Thane.

2) Madhukar s/o Gana Patil,
Age 62 years, Occuaption Retired,

3) Mangala w/o Madhukar Patil,
Age 57 years, Occupation Household,

4) Nitin @ Chandrakant s/o Madhukar Patil,
Age 37 years, Occupation Self Employed,

Respondent No.2 to 4 residing at Plot
No.8, Madhu Mangal Bhavan, Raison
Nagar, Mohadi Road, Jalgaon Tq. Dist.
Jalgaon.

5) Sunayana w/o Raunak Patil,
Age 30 years, Occupation Household,

6) Raunak s/o Pradeepsing Patil,
Age 31 years, Occupation Service in
Indian Air Force,

Respondent No.5 and 6 are residing at
Airforce Station, Naal, Bikaner, Rajasthan. ...Applicants

Versus

1) The State of Maharashtra
Through Ramanad Police Station,
Jalgaon Tq. Dist. Jalgaon.

2) Suvarna w/o Sachin Patil,
Age 26 years, Occupation Household,

R/o Manyar Kheda Tq. Dist. Jalgaon.

...Respondents

Mr. G. A. Gadhe, Advocate for applicants.

Mr. A. S. Shinde, Addl. Public Prosecutor, for respondent No.1 / State.

Mr. V. P. Patil, Advocate for respondent No.2.

CORAM : T. V. NALAWADE &

SMT.VIBHA KANKANWADI. JJ.

DATE : 19-09-2018.

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

1. 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. 56 of 2018, registered with Ramanand Police Station, Jalgaon, for the offences punishable under Section 498-A, 354, 323, 504, 506 read with 34 of the Indian Penal Code.

2. Respondent No.2 got married to applicant No.1 on 02-06-2015 at Manyatkhedda Gavi Varadsim Tq. Bhusawal. Applicant No.1 is the husband of respondent No.2, applicants No.2 and 3 are the parents of applicant No.1, and applicants No.4 is brother of applicant No.1 and applicant No.5 is sister of applicant No.1. Applicant No.5 is the husband of applicant No.5.

3. Respondent No.2 – informant has contended that, at the time of marriage her father had given dowry of Rs.4,50,000/-. After marriage she went to Raisonni Nagar, Jalgaon at her matrimonial house to cohabit with her husband. She resided there for one year with them. Her husband is the engineer at Bharat Gear Company, Thakuralli Kalyan Dist. Thane. He is residing at Thakuralli Kalyan Dist. Thane. He used to come on Sunday and Monday at Raisonni Nagar Jalgaon. Applicant No.5 though married, was residing at their house. Applicants No.2 to 5 used to ill-treat her on the count of domestic work. They used to assault her. In the month of December 2015 she went for Diwali festival at her maternal house at Manyarkheda. At that time her father-in-law refused to take her at matrimonial house and had demanded Rs.1 lakh. Her father gave Rs.1 lakh in cash to accused No. 2, 3 and sister of No. 3, therefore they took her for cohabitation. Thereafter her husband took her to Thakuralli Kalyan. At that time her in-laws and sister-in-law and brother-in-law also went to Thakuralli with them. Applicant No.6 also came to Thakuralli by taking leave. At that time all applicants abused her and threatened. Her husband and other family members left her alone at Thakuralli and went to Jalgaon. On the next day her husband returned to Thakuralli and assaulted her and tried to kill her. He used to lock her in the house and kept her starving. Her

husband made telephone call to her brother Vijaysing, abused him and asked her to take respondent No.2 to their house informing that he will not cohabit with respondent No.2. At that time he had also demanded Rs.15 lakhs for repayment of the loan taken for purchasing plot at Thakuralli. Her brother had brought Rs.5 lakhs and handed over it to her husband at Jalgaon Rasoni Nagar after about eight days. She was in her bedroom, at that time her brother-in-law entered in the room and tried to outrage her modesty on 28-06-2016 at about 10.30 hours. So she went in the room of her in-laws and told the incident to mother-in-law but mother-in-law neglected the matter. When she informed the incident to her father and mother, her parents came to Jalgaon. Her in-laws had then demanded Rs.10 lakhs to her parents. Therefore, her father took her at maternal house at Manyarkheda on 29-06-2016. She made phone calls to her husband and informed about the incident, at that time her husband abused her and asked her that she has to cohabit with her brother. Therefore, she has lodged the report.

4. The applicants have contended that, there is two years delay in lodging FIR. Informant had gone to her parents house in Diwali and did not return back. When they made efforts to bring her back, she had demanded amount of Rs. 5 lakhs. She gave threat to lodge report against them. They had refused to pay Rs.5 lakhs to respondent No.2. They had registered report as N.C. with police

station, and then sent the complaint through RPAD, thereafter this FIR has been lodged by the complainant. Said FIR is nothing but a counter blast to the complaint of applicant No.2. It is a false and concocted story. Applicant No.1 has filed divorce petition against the complainant, and then complainant has filed FIR against them. Applicants No.5 and 6 are residing at their service station and applicant No.6 is the member of Indian Air Force, and just to harass, they have been added in the said FIR. 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.

5. Heard learned Advocate Mr. G A. Gade appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. A. S. Shinde and learned Advocate Mr. V. P. Patil, appearing on behalf of respondent No.2. Perused the record.

6. The application was considered only for the allegations against the married sister-in-law applicant No.5 and her husband applicant No.6. No specific role has been attributed against them in respect of offence under Section 498-A of the Indian Penal Code. If at all there would have been a demand it would have been mainly by the husband and the father and mother-in-law. The perusal of the entire FIR would show that all of them had made the demand in chorus which is not possible when elders are there. Nothing was

demanded by applicants No.5 and 6 for themselves as per the allegations in the FIR itself. Moreover applicants No.5 and 6 have produced on record certificate issued by Flight Lieutenant, Station Adjutant, Air Force Station, Nal contending that, applicant No.6 Ronak Patil was on duty during the period 01-12-2015 to 31-12-2015 and 01-06-2016 to 30-06-2016 and between the said period he was residing with his wife and held on the posted strength of 31 MCU, Air Force at Air Force Station, Palam, New Delhi. It is also certified in the said certificate that, during the said period Mrs. Sunayana i.e. applicant No.5 was present in Delhi with her husband i.e. applicant No.6 at the address ; F-35/1, Flat No. B-3, Shakuntala Apartment, Gali No. 16 D, Sadh Nagar, Palam Colony, New Delhi – 110045. So, it appears that, as a routine all the relatives of the husband have been roped. Under such circumstance relief is required to be granted to the applicants No.5 and 6 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) Application of applicants No.5 and 6 is hereby allowed.
- 2) Relief is granted in terms of prayer clause "A" to the applicants No. 5 and 6 only.

3) Application to the extent of applicants No.1 to 4 is hereby rejected.

4) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.