

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

CRIMINAL APPLICATION NO. 1693 OF 2018

1. Kamal w/o Padmanath Khochare,
Age 54 years, Occ. Household,
R/o. Khadegolwali, Charms Corner,
B-302, Behind Pensil Factory,
At Post Khadegolwali, Vitthalwadi
(East), Tq. Kalyan, Dist. Thane.
2. Padmanath s/o Dagadu Khochare,
Age 60 years, Occ. Retired.
R/o. Khadegolwali, Charms Corner,
B-302, Behind Pensil Factory,
At post Khandegolwali, Vitthalwadi
(East), Tq. Kalyan, Dist. Thane.
3. Pramod s/o Padmanath Khochare,
Age 30 years, Occ. Service,
R/o. Quarter No. 1077, Ghatkopar,
C.T.S. Technical Cell, Material
Organization, Mumbai,
Ghatkopar (West).
4. Rameshwari w/o Prashant Khochare,
Age 40 years, Occu. Service.
5. Prashant s/o Padmanath Khochare,
Age 35 years, Occu. Service.
Applicant No. 4 & 5, R/o. Titwala,
Near Railway Station, Tq. Kalyan,
Dist. Thane.

... **Applicants**
(Ori. accused)

VERSUS

1. The State of Maharashtra,
Through Investing Officer,
Tofkhana Police Station,
Ahmednagar, Dist. Ahmednagar.

2. Priyanka w/o Pravin Khochare,
Age 26 years, Occ. Household,
R/o. D-40, PramdaN, HUDCO,
Savadi Road, Ahmednagar,
Tq. & Dist. Ahmednagar.

... **Respondents**
(Respondent No. 2 is
original informant)

...

Advocate for Applicants : Mr. N.B. Narwade.
APP for respondent No. 1/State : Mr. S.J. Salgare.
Advocate for Respondent No. 2 : Mr. S.S. Jadhav.

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

DATE : 10th AUGUST, 2018.

JUDGMENT (PER K.L. WADANE, J.) :

1. Rule. Rule made returnable forthwith. With the consent of the parties, this application is taken up for final disposal.

2. This application is filed under the provisions of section 482 of the Code of Criminal Procedure for relief of quashing of first information report No. I-301/2018, dated 11.06.2018 registered with Tofkhana police station, Ahmednagar, District Ahmednagar, for the offences punishable under section 498A, 323, 504, 506 read with section 34 of the Indian Penal Code. Learned counsel for applicants on instructions withdraw the application for applicants No. 1 and 2.

3. Applicants No. 1 and 2 are mother-in-law and father-in-law of the respondent No. 2/original complainant. Applicant No. 3 and 5 are the brother-in-laws of the respondent No. 2/complainant and applicant No. 4 is the wife of applicant No. 5.

4. Complainant Priyanka Pravin Khochare lodged complaint against the applicants alleging that she performed marriage with Pravin Khochare on 27.02.2016. In the marriage her father spent Rs. 20 to 25 lakh and gave 30-32 tolas gold. The complainant went for cohabitation and just from third day of the cohabitation, the family members were started illtreating her mentally by saying that her father did not give a bullet in the marriage. On 04.03.2016 the husband of complainant Pravin told her that since last 2 to 3 years he has love affair with one Jayshree Gaikwad and if she is ready to accept the relationship, he will cohabit with the complainant. The complainant ignored the fact and cohabited with her husband. On 28.03.2016 applicants No. 1 to 3 and husband of complainant abused and assaulted the complainant on account of demand of Rs. 1,50,000/- for purchasing bullet and drove her out. Due to which the father of complainant gave Rs. 1,50,000/- to the husband of complainant but thereafter also they illtreated the complainant.

5. It is further alleged by the complainant that by using her husband's phone Jayshree Gaikwad threatened the complainant. When complainant told about the said fact to her father-in-law, mother-in-law,

brother-in-law and sister-in-law they assaulted her and also threatened to kill. On 30.10.2016 at the time of Laxmipujan the applicants No. 1 to 3 and her husband demanded Rs. 5 lakh for purchasing flat. On that count they assaulted her and left her to the house of her maternal uncle. With these allegations, offence came to be registered against the applicants/accused for the offences punishable under section 498-A, 323, 504, 506 read with section 34 of the Indian Penal Code.

6. We have heard the arguments of Mr. Narwade, learned counsel for the applicants, Mr. Salgare, learned APP for the respondent No.1/State and Mr. Jadhav, learned counsel for respondent No. 2.

7. On perusal of the contents of the first information report it appears that specific allegations of demand of money and harassment are made against applicants/accused No. 1 and 2 and Pravin (husband). The allegations made against the applicants No. 3 to 5 are vague and general in nature. It appears that the applicant No. 3 is in service and residing at Ghatkopar (West) Mumbai. The applicant No. 5 along with his wife (applicant No. 4) is also residing at Titwala, Tq. Kalyan. Therefore prima-facie it appears that applicants No. 3 to 5 have no direct concern with alleged illtreatment, demand of money and threat to complainant.

8. On perusal of the first information report it also appears that there is no material particular quoting any specific incident of visit or about

illtreatment or harassment at the hands of applicants No. 3 to 5, so as to attract the ingredients of section 498-A of the Indian Penal Code or other offence as alleged by the complainant. Hence to prevent the abuse of process of law, we find that discretion needs to be exercised in respect of applicants No. 3 to 5. Hence, following order:

ORDER

1. Application of applicants No. 3 Pramod s/o Padmanath Khochare, applicant No. 4 Rameshwari w/o Prashant Khochare and applicant No. 5 Prashant s/o Padmanath Khochare, is allowed. Relief is granted to them in terms of prayer clause 'B'.
2. Application of other applicants No. 1 and 2 is disposed of as withdrawn.
9. Criminal Application is disposed of accordingly.
10. Rule made absolute in the above terms.

(K. L. WADANE, J.)

(T.V.NALAWADE, J.)

mkd