

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

CRIMINAL APPLICATION NO. 1694 OF 2018

Jayshri w/o Akash Gaikwad,
Age 34 years, Occ. Household,
R/o. Flat No. 404, Onyx Building,
Yogidham, Kalyan (W), Tq. Kalyan,
Dist. Thane.

... **Applicant**
(Ori. Accused No. 2)

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.

3. 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 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 applicant 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 father-in-law, mother-in-law, brother-in-law, 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.

4. It is further alleged by the complainant that by using her husband's phone applicant 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 father-in-law, mother-in-law brother-in-law and husband of complainant 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.

5. 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.

6. On plain reading of the first information report it appears that there are no specific allegations against the applicant about causing illtreatment or assault to the complainant. It is also to be noted that the applicant is not a relative of accused No. 1 Pravin (husband). The offence under section 498A of the Indian Penal Code can be attracted only against the husband or the relatives of the husband. In the present case the applicant is stated to be a lover of accused No. 1. So, applicant does not come within the definition of relative of husband. Therefore, the offence punishable under section 498A of the Indian Penal Code is not attracted against her. On perusal of the first information report it also appears that there are no specific

allegations of assault, or abuses against the applicant. So also the other offences are not attracted against the applicant.

7. In view of the above, the application is therefore liable to be allowed. Hence, following order is passed.

ORDER

1. Application is allowed. Relief is granted in terms of prayer clause 'B'.
 2. Rule made absolute in those terms.
8. Criminal Application is disposed of accordingly.

(K. L. WADANE, J.)

(T.V.NALAWADE, J.)

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