

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1739 OF 2018

- 1) Pramod s/o Madhav alias Mahadu Bedre
alias Bendre,
Age 44 years, Occupation Agriculture,
R/o Village Hivara Tq. Kalamnoori
Dist. Hingoli.
- 2) Madhavrao s/o Shankarrao Bedre,
Age 65 years, Occupation and
R/o as above.
- 3) Kashibai w/o Madhavrao Bedre,
Age 54 years, Occupation and
R/o as above.
- 4) Kishor s/o Madhavrao Bedre,
Age 28 years, Occupation Agriculture,
R/o as above.
- 5) Nagorao s/o Sangamnath Digrase,
Age 42 years, Occupation Agricultural,
R/o Shivshankar Nagar, Kurunda,
Tq. Vasmata Dist. Hingoli.
- 6) Archana w/o Nagorao Digrase,
Age 34 years, Occupation Household,
R/o as above.

...Applicants

Versus

- 1) The State of Maharashtra
Through the Officer Incharge,
Vimantol Police Station,
Nanded Tq. Dist. Nanded.
- 2) Nikita w/o Pramod Bedre,
Age 37 years, Occupation Secretary
of Saraswati Vidya Niketan,
Vasmata R/o Bhosikar House,

Near Mayur Talkies, Naik Nagar,
Nanded, Tq. Dist. Nanded.

...Respondents

Mr. R. S. Deshmukh, Advocate for applicants.

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

Mr. S. S. Deshmukh, Advocate for respondent No.2.

**CORAM : T. V. NALAWADE &
SMT.VIBHA KANKANWADI. JJ.**

DATE : 05-10-2018.

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

1. At the outset, learned Advocate for the applicants seeks permission to withdraw the application to the extent of applicant nos.1 to 3.

2. Permission granted. The application stands disposed of as withdrawn to the extent of applicant nos.1 to 3.

3. Rule. Rule made returnable forthwith. By consent, heard finally.

4. 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 charge-sheet and proceedings in R. C. C. No. 286 of 2018 filed with learned Judicial Magistrate First Class, 6th Court, Nanded, for the offences punishable under Section 498-A, 377, 354, 323, 504, 506 read with 34 of the Indian Penal Code arising from First Information Report vide Cr. No.

0211 of 2017 registered with Vimantal Police Station, Nanded.

5. Respondent No.2 got married to applicant No. 1 on 29-01-2001. Applicant No.2 and 3 are the parents of applicant No. 1. Applicant No.4 is the brother of applicant No. 1. Applicant No. 6 is the sister and applicant No. 5 is the husband of applicant No.6.

6. Respondent No.2 – informant has contended that, she has a son and a daughter out of the wedlock. She is serving as Secretary with an Institution at Vasmat since last three years, prior to the FIR on 02-07-2017. At the time of marriage, her father had given 45 tolas of gold ornaments, 2 kg silver, cash of Rs.10,00,000/-, household articles like fridge, Air conditioner, sofa, cot, washing machine, colour T. V., show-case, dressing table, utensiles. Applicant No. 2 and 3 started picking the errors of informant in doing household work after six months of marriage and insulting her on that count. They were harassing her mentally and physically. Her father-in-law had tried to outrage her modesty in 2006, when other members of the family had gone out. The said incident was disclosed by her to her father on the next day. Therefore, her father had taken her to his house, where she had stayed for about 6 months with her children. Thereafter, her husband came there and started residing there with them. Her husband and she herself had taken a house on rent at Sharadanagar, Nanded in 2008 for the purpose of education

of children. She told her husband to bring income from agricultural land as they were in need for the purpose of education of children. Applicant No. 6 and 5 told applicant No. 1 that they will see how her father maintains her and children, since she had gone to reside in the house of father. Applicants No. 2 and 3 had instigated applicant No. 1 and applicant No. 6 refused to give share from the land. On the instigation by other applicants, applicant No. 1 had assaulted her as well as her children. Thereafter they shifted to the rented premises in Anandnagar, Nanded. She was harassed at that place also by her husband. Applicants were raising suspicion over her character. They against shifted to the rented premises in Paturkarnagar, Nanded and the harassment continued. All the applicants had given her threat to kill in 2017, when she was in her office. Applicants had forced her to perform pooja for black magic through a Mantrik. Daughter was beaten by applicant No. 1 in 2017. Applicant No. 1 had unnatural sex with her many times, when she had refused, at that time he had tried to strangle her. Again she as well as her children were beaten by applicant No. 1 in April and May 2017. Therefore, she has lodged the report.

7. The applicants have contended that, the allegations in the FIR are false and frivolous. No such incident had ever taken place as narrated in the FIR. Applicant No. 6 got married to applicant No. 5 on 24-04-1992 i.e. much prior to the marriage of applicant No. 1

and respondent No. 2. They both reside at Kurunda, Tal. Vasamat, Dist. Hingoli. Applicant No. 4 resides separately from applicant No. 1 to 3. Informant desired to establish Society by name Astha Education and Welfare Education Society at Parbhani. The said institution started a school at Vasamat. Applicant No. 1 was President of the Society, but he was removed abruptly. In his place one Abhay Dange has been appointed in 2016. Informant developed intimacy with Abhay Dange, as it is evident from Whats App messages. The FIR is belated. Informant comes from a financially sound family and therefore, not willing to stay at Hivara. Applicant No. 1 had shifted himself at various places as per her desire. The differences arose due to difference in financial status. Perusal of charge-sheet would show that no offence has been made against them. Therefore, they have prayed for quashment of the proceeding.

8. Heard learned Advocate Mr. R. S. Deshmukh appearing on behalf of applicants, learned Addl. Public Prosecutor Ms. D. S. Jape and learned Advocate Mr. S. S. Deshmukh appearing for respondent No.2. When it was pointed out to the learned advocate for the applicants that, this Court is not inclined to grant any relief to applicants No.1 to 3, he prayed for withdrawal of the application as against them.

9. The application was considered only for the allegations against

the married sister-in-law applicant No.6, her husband applicant No.5, brother applicant No. 4. Applicant No. 5 and 6 are residing at Kurunda, Tal. Vasamat, Dist. Hingoli. Though applicant No. 4 is also residing at Hivara, no specific role is attributed to him. Applicant No. 5 and 6 got married much prior to the marriage of informant. Their casual visits to the house of applicant No. 2 and 3 can not be taken as premeditated. Further informant herself has stated that she and applicant No. 1, with their children started residing in Nanded since 2008. There was no allegations of demand of money. If at all there would have been a demand it would have been mainly by the husband when he was residing with informant. There are different allegations against father-in-law. The statements of the witnesses are on the same line. Most important point, which requires to be considered at this stage is that both the children have given statement against father. The other allegations against applicants No. 4 to 6 are that they acted in chorus, which can not be taken within the purview of Sec. 498A of Indian Penal Code. So, it appears that, as a routine all the relatives of the husband have been roped. It would be futile exercise to ask applicants No. 4 to 6 to face the trial. Under such circumstance relief is required to be granted to the applicants No. 4 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 of applicants No. 1 to 3 stands disposed of as withdrawn.
- 2) Application of applicants No. 4 to 6 is hereby allowed.
- 3) Relief is granted in terms of prayer clause "C" to the applicants No. 4 to 6 only.
- 4) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.