

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

Criminal Application No. 01801 of 2018

District : Aurangabad

1. Mangesh s/o. Laxmikant Bhalerao,
Age : 38 years,
Occupation : Engineer,
R/o. Bradley Stoke, Bristol.
2. Laxmikant s/o. Mangalmurti
Bhalerao,
Age : 69 years,
Occupation : Retired,
Dhayari, Pune,
Maharashtra, India.
3. Mr. Niranjana s/o. Laxmikant
Bhalerao,
Age : 34 years,
R/o. Brooklyn, New York City,
U.S.A.
4. Mrs. Priya w/o. Niranjana
Bhalerao,
R/o. Brooklyn, New York City,
U.S.A.

.. Applicants.

versus

1. The State of Maharashtra,
Through P.S.O.,
Kranti Chowk,
Dist. Aurangabad.
2. Dr. Charuta w/o. Mangesh
Bhalerao alias
Dr. Charuta Prafullachandra
Kanade,
Plot No.2, Soham,
Sharadashram Colony,
Aurangabad - 431 001.

.. Respondents.

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Ms. Shweta Ankalwar, Advocate, for the applicants.

*Mr. S.J. Salgare, Additional Public Prosecutor,
for respondent no.01.*

*Mr. S.S. Solanke, Advocate (appointed),
for respondent no.02.*

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

DATE : 07TH SEPTEMBER 2018

JUDGMENT [Per Smt. Vibha Kankanwadi, J.] :

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

02. Present application has been filed by the original accused persons for quashing the first information report lodged by respondent no.02, with Kranti Chowk Police Station, Aurangabad, bearing Crime No. 0114/2018, for offences punishable under Sections 498A, 504, 506, 323, read with Section 34 of the Indian Penal Code.

03. Applicant no.01 is the husband of respondent no.02. Applicant no.02 is the father of applicant no.01. Applicant no.03 is brother of applicant no.01. Applicant no.04 is wife of applicant no.03.

04. Respondent no.02, who is Doctor by profession, stated that she got married to applicant

no.01 on 01.04.2010. Thereafter, she resided with applicant no.01 at Pune, Bangalore, London and Aurangabad. She has got daughter by name, Nitya, from applicant no.01. It is stated that since the date of her marriage, her husband, her husband's father, husband's brother and brother's wife were depending upon her income and they used to ask her about money all the time. In case, she refused she was harassed mentally and physically. When she refused to give money, at that time, husband had tried to dispose of her educational documents, passport and London visa by burning it. She has also alleged that her husband had assaulted her by means of cable of the laptop. She was driven out of the house in April 2014 after quarrel. Till August 2017, her husband was not doing any work and was totally dependent on her. When she came to Aurangabad on maternity leave in March 2017, at that time, her husband came to Aurangabad and demanded her amount for going to London. When she refused, he had given threat to kill her by strangulation. When she had tried to contact other applicants, so that she could be taken back, at that time, those accused persons had told that she should give the amount. Thus, on these allegations, respondent no.02 had lodged the FIR on 29.03.2018.

05. The applicants have contended that the contents in the FIR are false. After the marriage, applicant no.01 and respondent no.02 were residing at Basingstoke, Swindon and lastly at lastly at Hereford

in United Kingdom. They never resided at London. They had set up their matrimonial home at Scunthorpe in United Kingdom. He had supported his wife's dream by giving job in India and migrated to United Kingdom. He was doing job on contract till April 2011, in Swindon. Altercations started between the couple around the birth of daughter Nitya. He found that the respondent no.02 has moved all the money from their joint bank account without his notice. Her father had called applicant no.01 on 28.07.2017 communicating that respondent no.02 is seeking divorce. This was denied by him on WhatsApp communication. Respondent no.02 had unilaterally registered for daughter Nitya's extension of tourist visa. He was never invited by respondent no.02 or her parents when she was staying at Aurangabad. Ultimately, she had e-mailed the draft of mutual consent divorce on 06.08.2017 to him. He had tried to reconcile but in vain. Unaware about the proceedings in India, he left with no option but to file a petition in the High Court of Justice, United Kingdom. She has also filed a petition bearing PWDVA No.579/2017, before Judicial Magistrate (First Class), Aurangabad, but it has been rejected on the ground of jurisdiction. They were the residents of United Kingdom and, therefore, the petition was not maintainable. It is also stated that the respondent no.02 was demanding amount of Rs. 1,00,00000/- [One Crore] for the settlement. It is also stated that the other applicants were never staying together with applicant no.01 and respondent no.02. Applicant nos.03

and 04 are residing in U.S.A. since July 2013. Applicant no.02 is residing in village Bhadola, District Buldhana, as well as in Pune. Therefore, they have prayed for quashing of the proceedings.

06. Heard learned Advocate Ms. Shweta Ankalwar appearing for the applicants. Heard learned Additional Public Prosecutor Mr. S.J. Salgare appearing for respondent no.01 - State of Maharashtra. So also, heard learned Advocate (appointed) Mr. S.S. Solanke for respondent no.02.

07. The documents clearly show that for some days only, respondent no.02 had come to Aurangabad. The contents of the FIR would show that she was residing separately with her husband at Pune, Bangalore and London. Her daughter is also the citizen of United Kingdom. Only omnibus statements have been made as regards applicant nos.02 to 04 that they were demanding amount from the applicant. It also appears from the petition filed by respondent no.02 under the Protection of Women From Domestic Violence Act, that the applicant nos.02 to 04 were never residing together with her. Under such circumstance, only on the basis of omnibus statements, applicant nos.02 to 04 cannot be allowed to fact the trial. As regards applicant no.01 is concerned, there are allegations and, therefore, at this stage, it will not be proper to quash the FIR against him.

08. Hence, the following order :-

(a) The application is partly allowed.

(b) The first information report bearing Crime No. 0114/2018, registered with Kranti Chowk Police Station, Aurangabad, for offences punishable under Sections 498A, 504, 506, 323, read with Section 34 of the Indian Penal Code, to the extent of applicant nos.02 to 04 herein (original accused nos.02 to 04), is quashed and set aside.

(c) The application to the extent of applicant no.01 herein (original accused no.01) is hereby rejected.

(d) Rule made absolute in the above terms.

09. Learned Advocate Mr. S.S. Solanke was appointed to represent the cause of respondent no.02. His fees is quantified at Rs. 3,000/- [Rupees three thousand] which would be payable by the High Court Legal Services Sub-Committee at Aurangabad.

(Smt. Vibha Kankanwadi)
JUDGE

(T.V. Nalawade)
JUDGE

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