

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1815 OF 2018

- 1] Gavlanbai Prabhakar Potbhare,
Age : 55 years, Occu. : Household,
R/o Bhimai Nagar, Parali Ves,
Ambajogai,
Tq. Ambajogai, Dist. Beed.
- 2] Prabhakar Subhan Potbhare,
Age : 61 years, Occu. : Pensioner,
R/o As above.
- 3] Rajabhau Prabhakar Potbhare,
Age : 35 years, Occu. : Service,
R/o Talegaon Dhhade, Pune.
- 4] Majokumar Prabhakar Potbhare,
Age : 33 years, Occu. : Service,
R/o Dharur, Tq. Dharur Dist. Beed.
- 5] Amarpali Rajabhau Potbhare,
Age : 30 years, Occu. : Household,
R/o Talegaon Dhabhade, Pune.
- 6] Shradha Balu @ Milind Dhage,
Age : 29 years, Occu. : Household,
R/o LIC Colony, Ambajogai, Tq.
Ambajogai,
Dist. Beed.
- 7] Balu @ Milind Prabhakar Dhage,
Age : 33 years, Occu. : Service,
R/o As above.

...Applicants

Versus

- 1] The State of Maharashtra,
Through D. G. P. Beed,
Shivaji Nagar Police Station,
District : Beed.

2] Balkrushna Eknath Dhage,
R/o Sant Namdeo Nagar,
District : Beed.

...Respondents

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Mr. R. F. Totla, Advocate H/F Mr. R. A. Karwa,
Advocate for Applicants.

Ms. V. S. Choudhari, A. P. P. for Respondent No. 1-
State.

Mr. R. S. Patil & Mr. R. I. Wakade, Advocates for
Respondent No. 2.

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**CORAM : T. V. NALAWADE &
SMT. VIBHA KANKANWADI, JJ.**
DATE : 24-11-2018.

JUDGMENT : (Per Smt. Vibha Kankanwadi, J.)

01. Present application has been filed by the original accused persons invoking the inherent powers of this Court under Section 482 of Cr. P. C. for quashing and setting aside the F. I. R. vide C. R. No. 220 of 2018 registered at Shivaji Nagar Police Station, Beed for the offences punishable under Sections 304-B, 498A, 323, 504 and 506 read with Section 34 of I. P. C.

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

03. Deceased Rupali was the daughter of respondent

No. 2. She got married to one Sushil Prabhakar Potbhare i.e. son of present applicant Nos. 1 and 2 on 29.5.2015. Applicant Nos. 3 and 4 are the brothers of husband of Rupali. Applicant No. 5 is wife of applicant No. 3. Applicant No. 6 is the married sister of husband of Rupali and applicant No. 7 is husband of applicant No. 6.

04. Informant had filed the information contending that because of his poor financial condition, he could not give the agreed dowry of Rs. 80,000/- at the time of marriage. But, then he had promised to give that amount after about 6 months. After the marriage, for about 6 months Rupali was treated properly at her matrimonial home. However, thereafter, as her father i.e. informant could not fulfill the demand all the accused persons started harassing her by saying that she should bring the remaining amount of Rs. 80,000/-. They used to keep her starved and assault her. They were also asking Rupali to work in the house of applicant No. 6. Rupali was sustaining the sufferance as her parents had no amount. Thereafter, when she become pregnant, at that time, she was driven out of the house by saying that she should bring remaining amount of Rs. 80,000/-. She delivered female child on 24.8.2016. In spite of intimation, none of the persons from matrimonial home had come to see her.

Thereafter, Rupali was left at her matrimonial home by the informant and his wife in December 2016. At that time, all the accused persons clearly told them that they should keep Rupali in matrimonial home only upon fulfillment of amount of Rs. 80,000/-. Informant then promised that he would give that amount within 2 to 3 months. In spite of the said promise there was no change in the behaviour of the accused towards Rupali. They continued to harass her. Rupali used to inform the said fact on phone to her parents. They kept on promising that whenever they would receive the amount, they would give it. Informant, his wife and relatives went to the matrimonial home of Rupali after about 2 months and requested the accused persons to behave properly with her. Again there was no change in their behaviour. Rupali was severely beaten at about 10 PM by all the accused persons on 15.1.2018 and she was driven out of the house at about 5 AM on 16.1.2018 by taking out her gold ornaments and asking her to bring the remaining amount. Rupali with her daughter went to the informant's house and told about the harassment to them. She was pregnant of about 3 months at that time. It is stated that she used to remain continuously under fear of the accused persons. Her husband used to abuse her on phone. At about 5 to 5.15 AM on 12.3.2018 when

informant's wife went out side for domestic work the small child of Rupali started crying and therefore, when all of them went they found that Rupali had committed suicide by hanging herself to the roof. She was taken immediately to the Hospital, but, was declared dead. Therefore, father of Rupali lodged the report on 17.3.2018.

05. The applicants have contended that Rupali was not residing in their house when she committed suicide. The entire story in the F. I. R. is concocted and baseless. Vague and omnibus statements have been made regarding demand of amount of Rs. 80,000/-. There is a delay of about 5 days in lodging the report, which shows that it was an after thought attempt. They had not in any way abetted the commission of suicide by deceased. They have been falsely implicated and therefore, they prayed for quashing the report. By way of amendment they have also prayed that the charge-sheet No. 110 of 2018 pending before J. M. F. C., Court No. 2, Beed be quashed and set aside.

06. Heard learned Advocate Mr. R. F. Totla, H/F Mr. R. A. Karwa, Advocate for Applicants, Ms. V. S. Choudhari, A. P. P. for Respondent No. 1 and Mr. R. S. Patil & Mr. R. I. Wakade, Advocates for Respondent No. 2. Perused the

Police papers.

07. All of them have argued in support of their respective contentions.

08. It can be seen from copy of the charge-sheet that Rupali committed suicide by hanging. She got married on 29.5.2015 and her death occurred on 12.3.2018. Even though the incident had taken place on that day there is delay of about 5 days in lodging the report. Further, when this Court expressed that the Court is not willing to grant any kind of relief to the applicant Nos. 1, 2 and 3 the learned Advocate for the applicants prayed for withdrawal of their application. Hence, the application as against applicant Nos. 1, 2 and 3 was allowed to be withdrawn.

09. The application was considered in respect of applicant Nos. 4 to 7. Applicant No. 4 is the wife of applicant No. 3. She was also daughter-in-law of the house. Though it appears that she was also residing alongwith accused Nos. 1 to 3, there is absolutely no ground for which she can ask for dowry. As regards alleged demand and harassment is concerned, omnibus statements have been made. Specific role is not attributed to applicant Nos. 4 to 7. Though applicant

Nos. 1 and 2 are residing at Bhimai Nagar, Parali Ves, Ambajogai, Tq. Ambajogai, Dist. Beed, applicant No. 3 is residing at Talegaon Dhabhade, Pune, yet, specific allegations are against them. Deceased used to reside at Ambajogai. Applicant Nos. 6 and 7 are also residing at Ambajogai, but, in a separate house. She is the married sister. Under such circumstance, it appears that they have been added as accused on the ground that they are the relatives of husband of deceased. The Police papers also show that the deceased had left a suicide note. In her suicide note, she has blamed only accused Nos. 1 to 3 as well as husband. This prima facie evidence is required to be considered at this stage also in order to see role attributed to applicant Nos. 4 to 7. The statements of the witnesses are just like the F. I. R. When deceased herself had not made any allegations against applicant Nos. 4 to 7, it would be a futile exercise to ask them to face the trial. Hence, case is made out to invoke powers of this Court under Section 482 of Cr. P. C. within the parameters laid down in **State of Haryana and Ors. V/s Bhajanlal and Ors., [1992 Supplement -1 Supreme Court Cases, 335]**.

10. Hence, following order;

ORDER

(i)The application of applicant Nos. 1, 2 and 3
is disposed of as withdrawn.

(ii)The application of applicant Nos. 4, 5, 6 and
7 is allowed.

(iii)Relief is granted to the applicant Nos. 4,
5, 6 and 7 in terms of prayer clauses "b" and
"B(1)".

(iv)Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI]

JUDGE

[T. V. NALAWADE]

JUDGE

Dahibhate/-