

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

CRIMINAL APPLICATION NO. 1829 OF 2018

1. Vikram s/o. Suryabhan Divekar,
Age 30 years, Occ. Service,
R/o. Thane, Mumbai.
2. Mandabai Suryabhan Divekar,
Age 55 years, Occ. Household,
R/o. Devgaon Rangari,
Dist. Aurangabad.
3. Sachin S/o Suryabhan Divekar,
Age 37 years, Occ. Service,
R/o. Devgaon Rangari,
Dist. Aurangabad.
4. Ajit S/o Suryabhan Divekar,
Age 35 years, Occ. Agri.,
R/o. Devgaon Rangari,
Dist. Aurangabad.
5. Hema W/o Sachin Divekar,
Age 30 years, Occ. Service,
R/o. Devgaon Rangari,
Dist. Aurangabad.
6. Shital W/o Ajit Divekar,
Age 30 years, Occ. Household,
R/o. Devgaon Rangari,
Dist. Aurangabad.
7. Bhagwan S/o Sampat Pagare,
Age 32 years, Occ. Service,
R/o. IIT Powai Mumbai.
8. Deepali W/o Bhagwan Pagare,
R/o. IIT Powai Mumbai.

... **APPLICANTS**
(Orig. Accused)

VERSUS

1. The State of Maharashtra,
Through Incharge Police Station
Officer, Police Station, Mukundwadi,
Aurangabad, Dist. Aurangabad.
2. Amrapali W/o Vikram Divekar,
Age 26 years, Occu. Household,
R/o. 46/14, Sangharsha Nagar,
Mukundwadi, Aurangabad,
Tal. & District Aurangabad.

... RESPONDENTS

...
Mr. N. T. Tribhuvan, Advocate for Applicants.
Mrs. P. V. Diggikar, APP for Respondent No.1 / State.
Mr. R. K. Khandelwal, Advocate for Respondent No.2.
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CORAM : **T. V. NALAWADE &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 30th August, 2018.

JUDGMENT: (Per T. V. Nalawade, J.)

. Rule. Rule made returnable forthwith. By consent, heard
both the sides for final disposal.

2 The proceeding is filed under Section 482 of the Code of
Criminal Procedure for relief of quashing of FIR No.116 of 2018,
registered with Mukundwadi Police Station, District Aurangabad, for

the offences punishable under Sections 498-A, 323, 504, 506, 406 and 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

3 Both the sides are heard.

4 The crime is registered on the basis of report given by one Amrapali Divekar, who is the wife of Applicant No.1. Applicant No.2 is the mother of Applicant No.1. Applicant Nos.3 and 4 are the brothers of Applicant No.1 and Applicant Nos.5 and 6 are the wives of Applicant Nos.3 and 4. Applicant No.8 is the married sister of Applicant No.1 and Applicant No.7 is the husband of Applicant No.8.

5 The first informant was given in marriage to Applicant No.1 on 26th June, 2016. It is her contention that she was in service at the relevant time and she was kept at village Devgaon Rangari where the mother-in-law, brothers of the husband were living as the husband was living in Powai, Mumbai for work. She was in service in Aurangabad and she used to commute between the two places. It is her contention that for some period, 8 to 9 months, she lived in Devgaon Rangari.

6 It is the contention of the first informant that when her father insisted her husband that he should take her to his place of work, her husband took her to Thane Lokmanya Nagar and there they started cohabiting in the rented premises. It is her contention that she notices that the husband used to return to home in late hours and he had illicit relations with atleast two women. It is contended that when she informed about this conduct of the husband to the sisters of the husband, they did not believe her and they said that she was unnecessarily defaming the husband and they even assaulted her.

7 It is the contention of the first informant that in January 2018, when she was present in her house, Accused Vikram, husband and Deepali, sister of the husband came to her and asked her to bring Rs.4,00,000/- from her parents. It is her contention that when she refused to do that, they assaulted her. She gave report on 27th April, 2018. She has made allegations against all the Accused of aforesaid nature.

8 The submissions made and record show that the first informant was in service in Aurangabad and even at present she is in

service. There was cohabitation with husband at two places according to her like Devgaon Rangari and Thane. Main allegations are made against the husband and they are of the aforesaid nature. It can be said that due to her suspicion against the husband of aforesaid nature, she has dispute with the husband. Even when the married sister of the husband is resident of different place and the brothers of the husband had no concern with the aforesaid dispute, she has made allegations against them. She has made allegations against old aged mother of the husband by saying that she was taking her salary when she was cohabiting at Devgaon Rangari. This Court holds that allegations made against Applicant Nos.2 to 8 are vague in nature and it will be unnecessary harassment to them if charge-sheet is filed and they are asked to face the trial for the aforesaid offences.

9 The learned counsel for Respondent places reliance on some observations made by the Supreme Court in the case reported as **2015 Cri. L. J. 2031 (Taramani Parakh Vs. State of M.P. and Ors)**. The facts and circumstances of each and every case are always different. In the present matter, it cannot be said that the evidence, which can be given before the Court will decide the

involvement of Applicant Nos.2 to 8. In view of the vagueness of the allegations and nature of dispute, which the first informant had with the husband, this Court holds that relief needs to be granted to Applicant Nos.2 to 8. The learned counsel for Applicant No.1 submitted that he wants to withdraw the application of Applicant No.1, husband. In the result, the following order is passed:

ORDER

- I. The application of Applicant No.1, husband is disposed of as withdrawn.
- II. The application of Applicant Nos.2 to 8 is allowed.
- III. Relief is granted to Applicant Nos.2 to 8 in terms of prayer clause (A).
- IV. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T. V. NALAWADE, J.]

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