

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1857 OF 2018

- 1) Vikas s/o Bhiwaji Waghmare,
Age 32 years, Occupation Service,
(State Reserve Police Force No.12 Hingoli)
- 2) Bhiwaji s/o Kishan Waghmare,
Age 75 years, Occupation Agriculture,
- 3) Subhash s/o Bhiwaji Waghmare,
Age 52 years, Occupation Agriculture,
- 4) Kapil s/o Subhash Waghmare,
Age 27 years, Occupation Agriculture,
- 5) Amol s/o Subhash Waghmare,
Age 24 years, Occupation Agriculture,
- 6) Rajamati w/o Subhash Waghmare,
Age 45 years, Occupation Household,

All R/o Karegaon Tq.Sengaon
Dist. Hingoli.
- 7) Vandana w/o Babasaheb Kamble,
Age 38 years, Occupation Household,
- 8) Babasaheb s/o Anandrao Kamble,
Age 46 years, Occupation Service
(Teacher),
Applicant No.7 and 8 R/o Teachers
Colony, Hingoli Tq. Dist. Hingoli.
- 9) Shilabai w/o Lamxan Ambhore,
Age 45 years, Occupation Household,
R/o Sarnath Colony, Parbhani
Tq. Dist. Parbhani.

...Applicants

Versus

- 1) The State of Maharashtra
Through Police Station Sengaon
Tq. Sengaon Dist. Hingoli.
- 2) Sow. Roshni w/o Vikas Waghmare,
Age 20 years, Occupation Household,
R/o Takali Kanhoba Tq. Kalamnuri
Dist. Hingoli. ...Respondents

Mr. D. M. Shinde, Advocate for applicants.
Mr. R. V. Dasalkar, Addl. Public Prosecutor, for respondent
No.1 / State.
Mr. S. S. Londhe, Advocate for respondent No.2.

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

DATE : 19-10-2018.

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

1. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.
2. 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 First Information Report vide Crime No. 90 of 2018, registered with Sengaon Police Station Dist. Hingoli, for the offences punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

3. Respondent No.2 got married to applicant No.1 on 31-01-2016 at village Takli (Kanoba) Tq. Kalamnuri Dist. Hingoli, and then she went for cohabitation at the house of applicant No.1. Applicant No.1 is the husband of respondent No.2, applicants No.2 is father-in-law, applicant No.3 is brother-in-law, applicants No.4 and 5 are the sons of applicant No.3, applicant No.6 is the wife of applicant No.3, applicant No.7 and 9 are sister-in-laws of respondent No.2.

4. Respondent No.2 – informant has contended that, at the time of marriage her father had given Rs.3 lakhs in cash as well as household articles worth of Rs.3 lakhs to the applicant No.1. After marriage she went to Karegaon to cohabit with her husband. All of the applicants treated her properly for about one year. Thereafter, applicants started to demand of Rs.10 lakhs for purchase of house at Hingoli. When she told the said demand to her parents, her parents expressed inability to pay the same as they had already spent amount, which was with them, in the marriage of respondent No.2. On count of demand of money all the accused persons started harassing her mentally and physically. Applicant No.1 used to keep respondent No.2 on starvation, used to raise suspicion on her chastity and also assault her, abuse her. Applicants Kapil and Amol used to abuse her on the count as to why she is not washing the clothes properly and iron the same. Applicant Subhash used to

abuse her as 'beggar'. Applicant Vandana also used to demand of Rs.10 lakhs for purchase of house at Hingoli. Applicant Shilabai also told applicant No.1 to leave the respondent No.2 and to perform second marriage as his wife is not bringing money. When she was at Ganganagar which is the service place of applicant No.1, for a period of six months, applicant No.1 used to drink liquor and to assault her. During the said period applicant No.1 kept illicit relations with other girls even in presence of respondent No.2. Due to assault of applicant No.1 during the period of pregnancy respondent No.2 faced abortion. When she was admitted in the hospital, applicant No.1 – threatened her to kill if she does not bring money. Attempt to have a settlement were made but it failed, and therefore she has lodged the report.

5. The applicants have contended that, they are falsely implicated in the present offence only with a view to harass them. They have not committed any offence. Applicant No.7 and 9 were married prior to the marriage of the respondent No.2 with applicant No.1. On 21-04-2018 Civil Judge Sr. Divn., Hingoli granted the divorce of applicant No.1 and respondent No.2 in H.M.P. No. 72 of 2017. In the said divorce petition respondent No.2 has not made any allegations in respect of demand of money. As per the compromise terms in the divorce petition, out of Rs.7 lakhs, Rs.4 lakhs were paid to respondent No.2 by demand draft and remaining amount of Rs.3

lakhs was to be paid at the time of last hearing of the said application. But thereafter respondent No.2 turned hostile and she had demanded excess amount of Rs.2 lakhs from applicant No.1. Therefore, on 27-03-2018 applicant No.1 filed complaint before President Family Welfare Committee District Court, Hingoli. However in the said complaint respondent No.2 has not disclosed the said fact and later on when her demand was fulfilled, she has given consent for divorce by mutual consent and it took place on 21-04-2018. Applicants further contended that, as already the divorce has been granted and no purpose will be served in continuing the criminal proceeding against the applicants, it would cause undue harassment to the applicants. Therefore, they have prayed for quashment of the proceeding.

6. Heard learned Advocate Mr. D. M. Shinde appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. R. V. Dasalkar and learned Advocate Mr. S. S. Londhe, appearing on behalf of respondent No.2.

7. The application was considered for all the applicants. Though at some place specific role has been attributed against applicants, there is grant of divorce between applicant No.1 and respondent No.2 on 21-04-2018. The F.I.R. in question is lodged on 20-05-2018 i.e. after divorce by mutual consent has been granted. That mens

on the day of FIR, the relationship had come to an end. Therefore, question arises as to why she should file complaint regarding past incidents. When there was mutual consent for divorce every fact was considered by husband and wife. They buried the differences. Hence no point in continuing the proceeding. It appears that, as a routine all the relatives of the husband have been roped. Moreover as stated above, already divorce has been took place on 21-04-2018 by order of learned Civil Judge (Sr. Divn.), Hingoli in H.M.P. No. 72 of 2017, and thereafter the present FIR has been lodged on 20-05-2018. Under such circumstance relief is required to be granted to all the applicants by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) Application is hereby allowed.
- 2) Relief is granted in terms of prayer clause "B" .
- 3) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.