

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3663 OF 2016

Sow. Jyoti w/o Abhijit Gaikwad,
Age 29 years, Occupation Household,
R/o Plot No.212/5, E-Ward,
Flat No. 401, Alka Vandan Apartment,
Nakshtra Park, Mohite Colony,
Kadamwadi, Kasba Bavada,
Kolhapur.

...Applicant

Versus

The State of Maharashtra
Through The Police Station Officer,
Kaij Police Station, Dist. Beed.

...Respondent

Mr. S. S. Choudhary, Advocate for applicant.
Ms. D. S. Jape, Addl. Public Prosecutor, for respondent/ State.

**WITH
CRIMINAL APPLICATION NO. 5012 OF 2016**

Sonali w/o Pradip Mane,
Age 23 years, Occupation Household,
R/o Vishal Nagar, Latur
Tq. Dist. Latur.
At Present Nandur Ghat Tq.Kaij
Dist. Beed.

...Applicant

Versus

- 1) The State of Maharashtra
Through The Police Station Officer,
Kaij Police Station, Dist. Beed.
- 2) Sow. Jyoti w/o Abhijit Gaikwad,
Age 29 years, occupation Household,
R/o Plot No. 212/5, E-Ward,

Flat No. 401, Alka Vandan
Apartment, Nakshatra Park,
Mohite Colony, Kadamwadi,
Kasba Bavada, Kolhapur
Dist. Kolhapur.

...Respondents

Mr. Mahesh Kale, Advocate holding for Mr. R. T. Deshmukh,
Advocate for applicant.

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

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

CORAM : T. V. NALAWADE &

SMT.VIBHA KANKANWADI. JJ.

DATE : 16-10-2018.

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

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

2. Criminal Application No. 3663 of 2016 has been filed by original accused No. 4 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. 163 of 2016, registered with Kaij Police Station, Dist. Beed, for the offences punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code. Criminal Application No. 5012 of 2016 has been filed by original informant for intervention.

3. Informant got married to Pradeep Digambar Mane on 24-03-

2014 at Aniket Mangal Karyalaya, Ambejogai. Applicant in Criminal Application No. 3663 of 2016 is the sister-in-law of informant.

4. Informant has contended that, her father had given dowry of Rs.9,00,000/- and household articles at the time of marriage. After marriage she went to her matrimonial house to cohabit with her husband. She was treated properly for about 4 months. Thereafter, her husband, his parents and sister-in-law started harassing by saying that she is not liked by husband. They used to keep her starved and were asking her to bring amount of Rs.5 lakhs for purchasing vehicle. She had disclosed the said fact to her parents and relatives. Her relatives tried to settle dispute, but there was no change in the behaviour of husband and in-laws. She was assaulted on 11-08-2015, when she was pregnant. She was treated at the hospital of Dr. Lahane and Galaxi Hospital. She had not lodged any report at that time, as she was pregnant and had the intention to cohabit. However, all the accused persons went in an Indica Car at Nandurghat in the house of her father and told that she has delivered female child and in order to purchase Innova Car, she should bring Rs.5 lakhs. Her parents were abused and she was assaulted. The said dispute was intervened by her uncle and neighbours. Therefore, she has lodged the report.

5. The applicant has contended that, she has completed

graduation in Ayurveda Medicine and surgery, but she is not practicing. She got married to one Abhijit Shriniwasrao Gaikwad of Kolhapur on 01-11-2009. Since then she is residing at her matrimonial house. She has a daughter by name Saanvi, who was born on 06-07-2011. She was under going medical treatment at Shri. Kamakshi Hospital (Uma clinic) Kolhapur from 26-03-2015 to 03-01-2016 at the time of her second pregnancy. She gave birth to a male child on 18-12-2015. She was discharged from the said hospital on 22-12-2015. She was required to be admitted again on 05-06-2016. She was not in a position to move out of Kolhapur during the said period. Therefore, she has been falsely implicated. Therefore, she has prayed for quashment of the FIR.

6. Heard learned Advocate Mr. S. S. Choudhary appearing on behalf of applicant in Criminal Application No. 3663 of 2016, learned Addl. Public Prosecutor Ms. D. S. Jape and learned Advocate Mr. Mahesh Kale h/f for Advocate Mr. R. T. Deshmukh, appearing on behalf of applicant in Criminal Application No. 5012 of 2016.

7. Criminal Application No. 5012 of 2016 has been filed for intervention. Informant has not been made as party in Criminal Application No. 3663 of 2016. Therefore, the said application deserves to be allowed.

8. Applicant in Criminal Application No. 3663 of 2016 is the sister-in-law of informant. Perusal of FIR would show that no specific role has been attributed against them in respect of offence under Section 498-A of the Indian Penal Code. If at all there would have been a demand it would have been mainly by the husband and the father and mother-in-law. The perusal of the entire FIR would show that all of them had made the demand in chorus which is not possible. Nothing was demanded by applicant for herself as per the allegations in the FIR itself. Perusal of documents produced by applicant would show that she got married much prior to the marriage of informant with the brother of applicant. She is residing at her matrimonial home at Kolhapur, which is far away from Latur. So, it appears that, as a routine, the relative of the husband has been roped. It would be futile exercise to ask applicant to face the trial with such vague contentions. Under such circumstance relief is required to be granted to the applicant by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) Criminal Application No. 5012 of 2016 for intervention is hereby allowed.
- 2) Criminal Application No. 3663 of 2016 is hereby allowed.

- 3) Relief is granted in terms of prayer clause "B" to the applicant.
- 4) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vj gawade/-.