

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

Criminal Application No. 01934 of 2018

District : Dhule

1. Anil s/o. Bhagwat Khandekar,
Age : 59 years,
Occupation : Service.

2. Kalpana w/o. Anil Khandekar,
Age : 52 years,
Occupation : Service.

3. Mahesh s/o. Anil Khandekar,
Age : 28 years,
Occupation : Professional.

4. Mangesh s/o. Anil Khandekar,
Age : 29 years,
Occupation : Professional.

.. Applicants

All R/o. Plot No.8/A,
Sahajyog Society,
R.M. 99, G Block,
M.I.D.C., Near KSB Chowk,
Shahunagar, Chinchwad, Pune.

5. Dnyaneshwar s/o. Bhagwat
Khandekar,
Age 48 years,
Occupation : Service,
R/o. Lokseva Vasahat,
13 Tadiwala Road,
Lokseva Tarun Mandal, Pune.

6. Ranjana w/o. Vijay Khandekar,
Age : 44 years,
Occupation : Household,
R/o. Near RTO Office,
S.No.120, Phole Nagar,
Yerwada, Pune.

versus

1. The State of Maharashtra,
Through City Police Station,
Dhule, Dist. Dhule.
2. Puja w/o. Gajendra Khandekar,
Age : 21 years,
Occupation : Household,
C/o. Plot No.95,
Ajalkar Nagar,
Chitwod Chauphuli, Dhule,
Dist. Dhule.

.. Respondents.

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Mr. Sachin S. Deshmukh, Advocate, for the applicants.

*Mr. R.V. Dasalkar, Additional Public Prosecutor, for
respondent no.01.*

Mr. V.P. Raje, Advocate, for respondent no.02.

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With

Criminal Application No. 03098 of 2018

District : Dhule

Gajendra s/o. Anil Khandekar,
Age : 30 years,
Occupation : Service,
R/o. Plot No.8/A,
Sahajyog Society,
R.M. 99, G Block,
M.I.D.C., Near KSB Chowk,
Shahunagar, Chinchwad, Pune.

.. Applicant

versus

1. The State of Maharashtra,
Through City Police Station,
Dhule, Dist. Dhule.

... Contd.

2. Puja w/o. Gajendra Khandekar,
Age : 21 years,
Occupation : Household,
C/o. Plot No.95,
Ajalkar Nagar,
Chitwod Chauphuli, Dhule,
Dist. Dhule.

.. Respondents

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Mr. Sachin S. Deshmukh, Advocate, for the applicant.

*Mr. R.V. Dasalkar, Additional Public Prosecutor, for
respondent no.01.*

Mr. V.P. Raje, Advocate, for respondent no.02.

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

DATE : 11TH DECEMBER 2018

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

01. Both the applications have been filed by respective original accused invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973, to quash and set aside the first information report vide C.R. No. 55/2017, registered with Dhule City Police Station, District Dhule, for offences punishable under Section 498A, 406, 323, 504, 506, read with Section 34 of the Indian Penal Code. Hence, they are considered in this common judgment and order.

02. After hearing learned Advocate for the applicants, when this Court expressed opinion that the Court is not inclined to grant any relief to the applicant in Criminal Application No. 3098 of 2018 and the applicants no.01 and 02 in Criminal Application No. 1934 of 2018, learned Advocate representing the concerned applicants prayed for withdrawal of the applications to the extent of the said applicants. Hence, present applications are allowed to be withdrawn in respect of those applicants. Criminal Application No. 1934 of 2018 is considered for applicants no.03 to 06 only.

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

04. It will not be out of place to mention here that the applicant in Criminal Application No. 3098 of 2018 is the husband of respondent no.02. Applicants no.01 and 02 in Criminal Application No. 1934 of 2018 are the parents of husband of respondent no.02. Applicants no.03 and 04 are the brothers-in-law of respondent no.02. Applicant no.05 is the uncle of husband of respondent no.02. Applicant no.06 is paternal aunt of husband of respondent no.02.

05. Respondent no.02 had filed the FIR stating that she got married to Gajendra Khandekar on 14.05.2015 at Siddhi-Vinayak Lawns, Aurangabad Road, Nashik. Her father had incurred all the expenses of the marriage and had also given amount of Rs. 5,00,000/- to the applicants. After marriage, she started residing with her husband, his parents and brothers at Pune. Uncle and aunt of her husband used to occasionally visit her matrimonial home. She was treated properly for about some days after the marriage, but after 15 to 20 days of marriage, she came to know that her husband has not passed examination pertaining to Chartered Accountant, which was pretended before the marriage. When she asked about the same to him, he abused and assaulted her. He told that she will have to cohabit quietly with him otherwise he would kill her. The parents-in-law and brothers-in-law used to instigate her husband. Thereafter, her husband started demanding amount for purchase of vehicle. When she expressed that her father is unable to fulfill the demand, she was harassed physically and mentally by all the applicants. Her brother had gone to Pune to fetch her on 29-8-2015 for the festival of *Rakshabandhan*. At that time, applicants told that they will allow her to go but while coming back, she should bring amount of Rs. 1,00,000/-. When her brother told that his father had not amount, at that time,

Stridhan on her person was taken by the applicants and she was driven out of the house. She waited for the applicants to take her back but then ultimately gave complaint application on 24-01-2017 with Mahila Takrar Nivaran Kaksha, Dhule. She was abused by the applicant - husband, in-laws and brothers-in-law and the compromise could not take place. Hence, she lodged the report.

06. The applicants are contending that they have been falsely implicated. The story narrated in the FIR is concocted and afterthought. Respondent no.02 had no intention to cohabit with husband. In fact, before the settlement of marriage, husband had shown his educational qualification certificates and also told that he is serving as Jim Instructor at Kalasagar Jim, Kasarwadi, Pune. There was no question of cheating respondent no.02. She has left the matrimonial home of her own and in spite of several attempts to bring her back, she has not responded properly. The husband has filed petition for restitution of conjugal rights and it is pending before Civil Judge (Senior Division), Pune. On these grounds, the applicants had prayed for quashment of the report.

07. Since Criminal Application No. 1934 of 2018 is only considered in respect of applicants no.03 to

06, the contents of the FIR would show that only omnibus statements have been made stating that together with the husband, father-in-law and mother-in-law, these applicants had assaulted, abused and demanded the amount. In clear terms, the informant had stated that the demand was made by the husband. Applicants no.05 and 06 are not even residing with the other applicants. No doubt, they are residing in Pune, but at different places. Their casual visit, if any, to the house of the husband of respondent no.02 cannot be viewed only for the sake of committing offence. When omnibus statements are made and no specific role has been attributed to applicants no.03 to 06, it would be futile exercise to ask them to fact trial. It appears that, they have been added as accused only because they are relatives of the husband. Under such circumstance, case is made out to exercise inherent powers of this Court under Section 482 of the Code of Criminal Procedure, to quash the FIR as against them.

08. Hence, the following order :-

(a) Criminal Application No. 3098 of 2018 is disposed of as withdrawn. So also, Criminal Application No. 1934 of 2018, to the extent of applicants no.01 and 02, is disposed of as withdrawn.

(Judgment)

(8)

Cri. Appln. No. 01934 of 2018
with Cri. Appln. No. 03098 of 2018

(b) Criminal Application No. 1934 of 2018 is allowed to the extent of applicants no.03, 04, 05 and 06. Relief is granted to applicants no.03, 04, 05 and 06 therein, in terms of prayer clause "A".

(c) Rule made absolute in the aforesaid terms.

(Smt. Vibha Kankanwadi)
JUDGE

(T.V. Nalawade)
JUDGE

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