

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1990 OF 2018

1. Amol s/o. Ramchandra Barkul,
Age 33 years, Occu. Service,
R/o. Talegaon, A-2, 402, Kohinoor,
Begenia Varale Village, Ambi Road,
Talegaon-Dhabhade, Pune 410 506.
2. Sojar Ramchandra Barkul,
Age 52 years, Occu. Household,
R/o. Yermala, Tq. Kalam,
Dist. Osmanabad.
3. Rajkanya Pradip Gaikwad,
Age 35 years, Occu. Service,
R/o. Shri. Ramchandra Palance,
Survey No. 7/2/1, Jai Malhar Nagar,
Colony No. 3, Thergaon, Pune - 411033.
4. Sheetal Atul Chaudhari,
Age 30 years, Occu. Housewife,
R/o. C-103, Swanapurti Co-op. Hsg.
Society, Waghere Colony No. 3,
Pimpri, Pune - 411017.
5. Komal Mahesh Gawali,
Age 28 years, Occu. Service,
R/o. Haikrishna Niwas, Ayat Colony No. 3,
Kalewadi, Pachpir Chowk, Pune - 17.
6. Pradip Bansilal Gaikwad,
Age 38 years, Occu. Service,
R/o. Shri. Ramchandra Palance,
Survey No. 7/2/1, Jail Malhar Nagar,
Colony No. 3, Thergaon, Pune -411033.

....Applicants.

Versus

1. The State of Maharashtra,
Through its Police Station Nanalpeth,
Parbhani, Tq. & Dist. Parbhani.
2. Neha w/o. Amol Barkul,

Age Major, Occu. H.H.,
R/o. Kausadikarwada, Vidyanagar,
Nanalpeth, Parbhani,
Tq. & Dist. Parbhani.

....Respondents.

Mrs. Rashmi Kulkarni h/f. Mr. D.B. Rode, Advocate for applicants.

Mrs. V.S. Choudhary, APP for respondent No. 1/State.

Mr. K.N. Shaikh, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
SMT. VIBHA KANKANWADI, JJ.
DATED : 19/09/2018.**

JUDGMENT : [PER T.V. NALAWADE, J.]

1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal. Applicants are allowed to add the prayer of quashing of the chargesheet itself. Amendment is to be carried out forthwith.

2) Present proceeding is filed under section 482 of Criminal Procedure Code for relief of quashing of F.I.R. No. 155/2018 registered with Nanalpeth Police Station, Parbhani for offences punishable under sections 498-A, 323, 506, 34 etc. of Indian Penal Code. By making amendment today, the relief of quashing of the chargesheet filed against the applicants is also claimed.

3) F.I.R. was given by respondent No. 2 Neha Barkul, who is wife of applicant No. 1. Applicant No. 2 is the mother of applicant

No. 1, applicant Nos. 3 to 5 are married sisters of applicant No. 1 and applicant No. 6 is the husband of applicant No. 3. The contentions made in the F.I.R. show that after marriage of the first informant with applicant No. 1, they cohabited at Talegaon Dabhadhe, Pune where applicant No. 1 was in service. The F.I.R. was given on 20.4.2018. Prior to that, proceeding under Domestic Violence Act was filed in December 2017. In the proceeding, no allegations at all were made as against present applicant No. 6.

6) Respondent No. 2 has made allegations that in the marriage, there was demand of household articles, gold ornaments and they were properly met with by her parents. Allegations are made that right from beginning, the husband had showed his greed for money. Some incidents in that regard are mentioned involving of the applicants to show that on petty count like proper gifts were not given on different occasions like marriage of Komal, there are allegations of harassment. Allegations are made against married sisters of the husband that by calling applicant No. 1 on phone, they were instigating the husband to give illtreatment and they were also insulting her by calling her. Allegations are made that the money which was with her was taken by mother in law and husband. Allegations are made that at the time of Diwali Festival of 2016, quarrel was picked up and she was asked to leave the matrimonial

house. On that count, she had lived with her parents till December 2016.

7) Allegations are made that in April 2017 when she was pregnant all the accused started asking her to abort the child. Allegations are made that the husband was addicted to liquor, he was using filthy language against her and on occasions, he was even giving beating to her. Allegations are made that when she was sick in July 2017, husband asked her to go to parents' house as he was reluctant to bear the expenses of treatment. It is her contention that she delivered female child when she was in the house of her parents, but the husband and his relatives did not turn up even to see her daughter. She contended that since 26.7.2017 she was living with her mother and the applicants are not ready to accept her back in the matrimonial house.

8) The submissions made and the record show that the husband had approached police against the first informant and he had complained in August 2017 that respondent had taken away all the household articles by breaking open lock of her flat from Varale, Talegaon Dhabhade, Pune. Thus, it can be said that it is the husband who approached police first and after that the wife filed proceeding like proceeding under Domestic Violence Act and the present F.I.R.

9) It was submitted for the applicants that the respondent No. 2 did not want to cohabit with the husband and she left the company of the husband on her own. It was submitted that the mother of the husband was living at the native place and there was no occasion for her to harass the first informant. It was submitted that when the father of the husband died due to cancer, the first informant did not turn up to matrimonial house on that occasion also.

10) There are specific allegations against husband and mother of husband which are already quoted. Though there is possibility that applicant No. 2 has been living at the native place, the husband was returning to the native place with the respondent, first informant and allegations are made that the incidents took place at the native place and also at Talegaon-Dhabhade. The fact that husband approached police first to give report against wife needs to be kept in mind. However, there are no specific allegations against applicant Nos. 3 to 6, who were living at different places at the relevant time. In view of the vagueness in the allegations and the fact that they were living separate and the fact that they would not have achieved anything by harassing the first informant, this Court holds that relief needs to be granted in favour of applicant

Nos. 3 to 6. No relief can be granted to applicant Nos. 1 and 2. In the result, following order.

O R D E R

(I) The application of applicant Nos. 3 to 6 is allowed. Relief is granted to them in terms of prayer clause 'C' and relief of quashing of the chargesheet bearing R.C.C. No. 172/2018 presently pending in the Court of C.J.M. Parbhani filed against them is also granted. Rule is made absolute to the extent of applicant Nos. 3 to 6 accordingly.

(II) Application of applicant Nos. 1 and 2 stands dismissed. Rule stands discharged to the extent of applicant Nos. 1 and 2.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

SSC/

Salim
Shafi
Choudhari

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by Salim Shafi
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