

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2023 OF 2018

- 1] Babarao Maroti Puyad,
Age : 47 years, Occu. Business,
R/o Saregaon, Mugat, Mudkhed,
Nanded.
- 2] Jijabai Babarao Puyad,
Age : 42 years, Occu. : Housewife,
R/o Saregaon, Mugat, Mudkhed,
Nanded.
- 3] Shivaji Babarao Puyad,
Age : 19 years, Occu. : Student,
R/o Saregaon, Mugat, Nanded.
- 4] Kavale Jijabai Madhav,
Age : 59 years, Occu. : Housewife,
R/o Shri Krishna Nagar Shindhi,
Shivangaon, Nanded.
- 5] Bhagnbai Balvantrao Kalane,
Age : 39 years, Occu. : Housewife,
R/o Saregaon, Mugat, Nanded.
- 6] Balvantrao Gopal Kalane,
Age : 40 years, Occu. : Business,
R/o Saregaon, Mugat, Nanded.
- 7] Mangesh Balvantrao Kalane,
Age : 21 years, Occu. :
R/o Saregaon, Mugat, Nanded.
- 8] Kalane Nagesh Balvanth,
Age : 19 years, Occu. : Student,
R/o Saregaon, Mugat, Nanded.
- 9] Sumanta Vyankat Patange,
Age : 39 years, Occu. : Housewife,
R/o Himayatnagar, Wadgaon Khurd,
Nanded.

- 10] Vyankat Gyanoba Patange,
Age : 44 years, Occu. : Business,
R/o Himayatnagar, Wadgaon Khurd,
Nanded.
- 11] Suresh Vyankatrao Patange,
Age : 20 years, Occu. : Student,
R/o Himayatnagar, Wadgaon Khurd,
Nanded.
- 12] Swati Vyankatrao Patange,
Age : 22 years, Occu. : Student,
R/o Himayatnagar, Wadgaon Khurd,
Nanded.
- 13] Shejal Vyankatrao Patange,
Age : 18 years, Occu. : Student,
R/o Himayatnagar, Wadgaon Khurd,
Nanded.
- 14] Kadam Pushpabai Suryakant,
Age : 34 years, Occu. : Housewife,
R/o Umri Khurd, Kholasa, Adilabad,
Andhra Pradesh.
- 15] Kadam Suryakanth Digambar,
Age : 40 years, Occu. : Business,
R/o Umri Khurd, Kholasa, Adilabad,
Andhra Pradesh. ...Applicants

Versus

- 1] The State of Maharashtra,
Through Barad Police Station,
Tq. : Mudkhed, Dist. Nanded.
- 2] Manjusha Apparao Puyad,
Age : 30 years, Occu. : Housewife,
R/o Saregaon, Mudkhed Nanded,
Current Address : Dighdi, Umerkhed, ...Respondents
Yavatmal.

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Mr. Khizer Patel, Advocate for Applicants.

Mr. R. V. Dasalkar, A. P. P. for Respondent No. 1-
State.

Mr. S. H. Patha, (appointed), Advocate for
Respondent No. 2.

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**CORAM : T. V. NALAWADE &
SMT. VIBHA KANKANWADI, JJ.**
DATE : 19-12-2018.

JUDGMENT : (Per Smt. Vibha Kankanwadi, J.)

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

02. Present application has been filed by the
original accused persons by invoking the inherent powers
of this Court under Section 482 of Cr. P. C. to quash and
set aside the F. I. R. vide C. R. No. 30 of 2018 dated
29.4.2018 registered with Barad Police Station, Tq.
Mudkhed, Dist. Nanded for the offences punishable under
Sections 498-A, 323, 504 and 506 read with 34 of I. P. C.

03. Applicant No. 1 is brother-in-law, applicant No.
2 is wife of applicant No. 1, applicant No. 3 is the son
of applicant No. 1 and 2, applicant no. 4 is the elder

sister-in-law, applicant No. 5 is younger sister-in-law, applicant No. 6 is husband of applicant No. 5, applicant No. 7 is son of applicant No. 5 and 6, applicant No. 8 is son of applicant No. 5 and 6, applicant No. 9 is younger sister-in-law, applicant No. 10 is husband of applicant No. 9, applicant No. 11 is is son of applicant No. 9 & 10, applicant No. 12 is daughter of applicant No. 9 & 10, applicant No. 13 is daughter of applicant No. 9 & 10, applicant No. 14 is youngest sister-in-law, applicant No. 15 is husband of applicant No. 15.

04. Respondent No. 2 got married to one Apparao Marotirao Puyad on 26.3.2006 at village Dighdi, Post — Devsari, Tq. Umerkhed, Dist. Yavatmal. At the time of marriage, her father had given amount of Rs. 2,00,000/- as a dowry and household articles like T. V., cot, cupboard, fan, fridge and utensils. She went to Tq. Saregaon, Tq. Mudkhed, Dist. Nanded to co-habit with said Apparao. She started residing with her husband, his parents, his brother Babarao, sister-in-law Jijabai, their son Shivaji and elder sister Jijabai. Apparao was serving at above places in India and therefore, he used to come occasionally for vacation or festival. It is contended that the relatives of husband of sister-in-law Sumata Vyankatrao Patange were making demand of dowry and

therefore, the husband of respondent No. 2 had taken the "stridhan" of respondent No. 2, which was weighing around 10 tolas and gave it to Vyankati Patange. Thereafter, father-in-law expired and then the sister-in-law Jijabai started harassing respondent No. 2 by saying that she is not a proper match to her brother, she is unable to cook, she is black, she is unable to conceive and therefore, she should give divorce to her brother. They all were asking respondent No. 2 to work and thereby giving harassment physically as well as mentally. When she tried to convey the said fact to her other sister-in-laws, they told that whatever their sister Jijabai is saying is the true fact. Therefore, she requested her husband to take her with him. Her husband was transferred to Navi Mumbai in 2011-2012 and therefore, respondent No. 2 went along with him. Her niece was with her at that time. She took treatment for conceiving. As a result of which she became pregnant. Her husband called sister-in-law Jijabai at that place and then the sister-in-law asked amount of Rs. 5,00,000/- to get her husband transferred. In the meantime, sister of respondent No. 2's marriage was settled and she was pregnant, therefore, her husband sent her to her parents house. She delivered the son on 11.7.2013. In the meantime, her husband was selected for UN piece keeping

mission. Therefore, he came and met them in October 2013 and went to Liberia. He came back in February 2015. During that period respondent No. 2 was residing with her parents. There was dispute between her sister-in-law, brother-in-law in respect of house of which the construction was going on at Mudkhed. Thereafter, all the applicants conspired and made demand of Rs. 5,00,000/- with the father of respondent No. 2 and told that if the amount is given, then only, she would be taken for co-habitation. Even her husband gave threat to kill her and tried to force her to give sign on bond paper. When she refused, she was assaulted and threat was given to defame her. Her husband filed divorce petition bearing No. 94 of 2017 in Nanded Court and therefore, she lodged the report.

05. Heard Mr. Khizer Patel, learned Advocate for Applicants, Mr. R. V. Dasalkar, learned A. P. P. for Respondent No. 1-State, Mr. S. H. Patha, (appointed), learned Advocate for Respondent No. 2. It was pointed to the learned Advocate for the applicants that this Court is not inclined to grant any kind relief to applicants No. 1 and 2 taking into consideration the contentions of the F. I. R., therefore, he prayed for withdrawal of the application as against the applicants No. 1 and 2.

06. The application has been considered in respect of applicants No. 3 to 15 only. The perusal of the F. I. R. would clearly show that the allegations against the applicants No. 3 to 15, some of whom are admittedly residing separately are made just for the sake that they are the relatives of the husband of respondent No. 2. No specific role is attributed to them. The contents do not show that there was a specific demand by each of them about the illegal amount or they had personally caused any such act amounting to cruelty within the meaning of Section 498-A of I. P. C. It also appears that after the husband had lodged petition for divorce, the respondent No. 2 has filed the F. I. R. in question. It can be said to be a counter blast. Even as per the contents of the F. I. R. though she was married in 2006, the husband was residing at a different places at the place of his service and except the sister-in-law Jijabai Madhavrao Kavale, nobody was staying with her and harassing her either verbally or physically. Thereafter between 2013 to 2015 she was residing with her parents at a different place and even prior to that for some period she was residing with her husband at Navi Mumbai. Under such circumstance, when the applicants No. 3 to 15 were not residing with respondent No. 2, it is hard to believe that they would

have subjected her to cruelty in any manner. It will be a futile exercise to ask the applicant Nos. 3 to 15 to face the trial. The grounds are made to invoke the powers of this Court under Section 482 of Cr. P. C. to quash the F. I. R.

07. Hence, following order;

ORDER

(i)The application of applicants No. 1 and 2 is disposed of as withdrawn.

(ii)Application of applicants No. 3 to 15 is allowed.

(iii)Relief is granted to them in terms of prayer clause "A".

(iv)The fees of appointed Counsel Rs. 3,000/- is to be paid through High Court Legal Services Authority, Sub-Committee at Aurangabad.

(v)Rule made absolute in those terms.

[SMT. VIBHA KANKANWADI]

JUDGE

[T. V. NALWADE]

JUDGE

Dahibhate/-