

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

CRIMINAL APPLICATION NO. 4536 OF 2014

1. Santosh Dnyandeo Palaskar
Age: 39 years, Occu : Service
R/o : Amit Bank colony road, Near
Police Colony, Savedi,
Ahmednagar.
 2. Yeshwant Dnyandeo Palaskar
Age: 34 years, Occu: Service
R/o : Saipark Apartment, Amit
Bank colony road, Pipeline road,
Ahmednagar District Ahmednagar.
 3. Vatsalabai Dnyandeo Palaskar
Age: 60 years, Occu: Household
R/o : Saipark Apartment, Amit
Bank colony road, Pipeline road,
Ahmednagar District Ahmednagar.
 4. Sau. Surekha Shahaji Divate
Age: 36 years, Occu: Household
R/o : "Shiveneri", Sonanagar,
Kushtadham Road, Ahemednagar,
District Ahmednagar.
 5. Shri. Shahaji Abasaheb Divate
Age: 42 years, Occu: Legal
Practitioner
R/o : "Shiveneri", Sonanagar,
Kushtadham Road, Ahemednagar,
District Ahmednagar.
- Applicants**
(Orig. Accused
... Nos.1 to 5)

VERSUS

1. The State of Maharashtra,
Through: In-charge Police
Inspector, Shrigonda Police Station,
Shrigonda Taluka Shrigonda
District Ahmednagar.

2 Sau. Aruna Santosh Palaskar
Age: 30 years, Occu: Household
R/o : at present C/o Prakash
Dhondiba Ghute, Ghutewadi,
Shrigonda, Tq. Shrigonda, Dist. ... Respondents
Ahmednagar.

Mr. V.D. Sapkal, Advocate for the Applicants.

Mrs. P.V. Diggikar, APP for Respondent - State.

Mr. G.A. Nagori, Advocate for Respondent No.2.

**CORAM : T. V. NALAWADE AND
K. L. WADANE, JJ.**

DATE: : 24th July, 2018

JUDGMENT (Per K. L. Wadane, J.):

1. Rule. Rule made returnable forthwith. With the consent learned counsel for the parties, the application is taken up for final hearing.

2. The present applicants have filed this application under the provision of Section 482 of Code of Criminal Procedure and challenged the complaint bearing RTC No.274/2013 registered against the present applicants and also the order passed by Judicial Magistrate, First Class, Shrigonda on 13.11.2013 under the provisions of Section 156(3) of the Code of Criminal Procedure.

3. We have heard the arguments of Shri. V. D. Sapkal, learned counsel for the applicants, Mrs. P.V. Diggikar, learned APP for the respondent - State and Mr. G.A. Nagori, learned counsel for the respondent No.2. We have also perused the allegations in the complaint.

4. On perusal of the complaint, it appears that the respondent No.2 married with the applicant No.1 on 22.02.2003. The applicant No.2 is brother and applicant No.3 is mother of the applicant No.1. The applicant No.4 is married sister of the applicant No.1 and applicant No.5 is the husband of the applicant No.4. It is alleged in the complaint that after the marriage, the applicant Nos. 1 to 3 and the respondent No.2 were residing jointly. However, the applicant Nos. 4 and 5 were residing separately in the same city, adjacent to the house of the applicant Nos. 1 to 3. The applicant Nos. 4 and 5 were having visiting terms with the applicant Nos. 1 to 3.

5. The respondent No.2 resided happily with the applicant Nos.1 to 3 for about 4 years. However, subsequently, the applicant No.1 was addicted to liquor and he started to ill-treat the respondent No.2. So also, the applicant Nos. 2 to 5 started ill-treating the respondent No.2 mentally and physically. It is further alleged that, the applicant Nos. 1 to 5 were ill-treating the respondent No.2 mentally and physically. They were beating her. With these

allegations, the respondent No.2 presented the private complaint, on which the learned Magistrate has referred the matter for investigation under Section 156 (3) of the Code of Criminal Procedure.

6. On perusal of the allegations in the complaint, it appears that after the marriage, the respondent No.2 was residing with applicant Nos. 1 to 3 and since beginning, applicant No.4 a married sister of applicant No.1 was residing with her husband i.e. applicant No.5 at "Shivneri", Sonanagar, Kushtadham Road, Ahmednagar. Whereas, the applicant Nos. 2 and 3 were residing at Saipark Apartment, Amit Bank Colony Road, Pipeline Road, Ahmednagar and applicant No.1 was residing at Amit Bank Colony Road, Near Police Colony, Savedi, Ahmednagar. In view of the fact that after the marriage the respondent No.2 was residing with the applicant Nos. 1 to 3, therefore, the allegations against them cannot be said to be baseless. However, the applicant Nos. 4 and 5 were residing separately since beginning, therefore, *prima facie*, it appears that there was no occasion for them to go to the house of the applicant Nos. 1 to 3 only for giving ill treatment to the respondent No.2.

7. In view of the above, the application is allowed only in respect of the applicant Nos. 4 and 5. Relief is granted to them in terms of prayer

clause "B" and the application of the remaining applicants i.e. applicant Nos. 1 to 3 stands dismissed.

8. Rule made absolute in those terms. The Criminal Application is disposed of.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

Sameer