

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

CRIMINAL APPLICATION NO. 2089 OF 2018

1. Sandeep S/o Bhagchand Pawar
Age: 38 years, Occu: Agriculture,
R/o. Sant Nagar, Paithan,
Tq. Paithan, Dist. Aurangabad
2. Saraswati W/o Bhagchand Pawar
Age: 62 years, Occu: Household,
R/o. Sant Nagar, Paithan,
Tq. Paithan, Dist. Aurangabad
3. Bhagchand S/o Asaram Pawar
Age: 63 years, Occu: Agriculture,
R/o. Sant Nagar, Paithan,
Tq. Paithan, Dist. Aurangabad
4. Shankar S/o Murlidhar Nalawade,
Age: 52 years, Occu: Service,
R/o. Madhav Nagar, Paithan,
Tq. Paithan, Dist. Aurangabad

...Applicants

Versus

1. The State of Maharashtra
Through Investigation Officer
Paithan Pollice Station, Tq. Paithan,
Dist. Aurangabad
2. Shivkanya W/o Sandip Pawar,
Age: 23 years, Occu: Household,
R/o. C/o. Dilip Bhanudas Pangare
Gulaj, Tq. Georai, Dist. Beed.

...Respondents.

**WITH
CRIMINAL APPLICATION NO. 2090 OF 2018**

1. Sandeep S/o Bhagchand Pawar
Age: 38 years, Occu: Agriculture,
R/o. Sant Nagar, Paithan,
Tq. Paithan, Dist. Aurangabad
2. Saraswati W/o Bhagchand Pawar
Age: 62 years, Occu: Household,

R/o. Sant Nagar, Paithan,
Tq. Paithan, Dist. Aurangabad

3. Bhagchand S/o Asaram Pawar
Age: 63 years, Occu: Agriculture,
R/o. Sant Nagar, Paithan,
Tq. Paithan, Dist. Aurangabad
4. Shankar S/o Murlidhar Nalawade,
Age: 52 years, Occu: Service,
R/o. Madhav Nagar, Paithan,
Tq. Paithan, Dist. Aurangabad
5. Manda W/o Shankar Nalawade,
Age: 46 years, Occu: Household,
R/o. Madhav Nagar, Paithan,
Tq. Paithan, Dist. Aurangabad

...Applicants

Versus

1. The State of Maharashtra
Through Investigation Officer
Chaklamba, Police Station, Tq. Georai,
Dist. Beed.
2. Shivkanya W/o Sandip Pawar,
Age: 23 years, Occu: Household,
R/o. C/o. Dilip Bhanudas Pangare
Gulaj, Tq. Georai, Dist. Beed.

...Respondents.

Mr. R.V. Gore, Advocate for Applicants.

Mrs. V.S. Choudhari, APP for Respondent/State No.1

Mr. P.D. Suryawanshi, Advocate for Respondent No.2.

**CORAM :T.V. NALAWADE AND
SMT. VIBHA KANKANWADI, JJ.
DATED : 02/11/2018.**

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

- 1) Rule. Rule made returnable forthwith in both the proceedings. By consent, both the sides are heard for final disposal.

2) The first proceeding is filed for relief of quashing of F.I.R. No. 85/2016 registered with Paithan Police Station, Tq. Paithan, District Aurangabad for offences punishable under sections 498-A, 323, 34 etc. of Indian Penal Code and also the proceeding of R.C.C. No. 398/2016 filed in this crime in the Court of Judicial Magistrate, First Class, Paithan, District Aurangabad. Second proceeding is filed for relief of quashing of F.I.R. No. 198/2016 registered with Chaklamba Police Station, Tq. Georai, District Beed for the same offences and for the relief of quashing of proceeding bearing R.C.C. No. 137/2017, pending in the Court of J.M.F.C., Georai, Tahsil Georai, District Beed in C.R.No. 198/2016.

3) This Court has carefully gone through the two F.I.Rs. The first F.I.R. was given on 27.2.2016 and the crime was registered in the police station where it was given, but the F.I.R. was then transferred to Paithan Police Station and so, crime was registered as C.R. No. 85/2016 and then case came to be filed. The first informant in both the cases is same and she is wife of applicant No. 1 Sandeep Pawar. Applicant No. 2 Saraswati is mother of Sandeep. Applicant No. 3 Bhagchand is father of Sandeep and applicant No. 4 Shankar is maternal uncle of Sandeep. In the second proceeding, the four applicants of the first proceeding are there and in addition to them,

there is applicant No. 5 Manda who is wife of applicant No. 4 Shankar. It appears that the first informant felt that no action was taken by police on the basis of her F.I.R., though crime was registered in Paithan Police Station and so, she filed private complaint in the Court of J.M.F.C., Georai on 28.11.2016. In the private complaint, she made allegation against five persons, which are the same allegations which were made in F.I.R. No. 85/2016. It appears that police have filed chargesheet after making investigation in the Court of J.M.F.C., Georai in second case also and so, there are two cases filed atleast against four applicants of both the proceedings.

4) The allegations made in the F.I.R. are mainly against the husband and his parents. When this Court expressed that this Court is not inclined to grant any relief in favour of husband and his parents, the learned counsel for husband and parents, applicant Nos. 1 to 3 in both the proceedings, on instruction submitted that he wanted to withdraw their proceedings.

5) In the F.I.R. no specific allegations are made against maternal uncle of the husband and his wife. He is living separate from the family of the husband and first informant. In view of vagueness of the allegations made against Shankar and his wife and

as no specific incident is mentioned, this Court holds that relief needs to be granted to applicant No. 4 of the first proceeding and applicant Nos. 4 and 5 of the second proceeding. Steps can be taken in future so that both the matters are tried in one Court to see that there is no double jeopardy and both the cases are decided in one Court as one case. In the result, following order.

O R D E R

- (i) In first proceeding, the application of applicant Nos. 1 to 3 is disposed of as withdrawn.
- (ii) In second proceeding, the application of applicant Nos. 1 to 3 is disposed of as withdrawn.
- (iii) In the first proceeding the application of applicant No. 4 Shankar Nalawade is allowed. Relief is granted to him in terms of prayer clause 'B'.
- (iv) In the second proceeding, the application of applicant Nos. 4 and 5 is allowed. Relief is granted to them in terms of prayer clause 'B'.

Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

ssc/