

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2110 OF 2018

- 1) Chandramani Datta Waghmare,
Age 31 years, Occupation Service,
R/o C/o. II- B-27, Janak Vihar,
Near DMS Booth, Indian Agricultural
Research Institute, Pusa, New
Delhi – 110012.
- 2) Chhayabai @ Rajshri Datta Waghmare,
Age 55 years, Occupation Housewife,
R/o Mahatma Phule Housing Society,
Kandhar Tq. Kandhar Dist. Nanded.
- 3) Datta Khanduji Waghmare,
Age 62 years, occupation Nil,
R/o Mahatma Phule Housing Society,
Kandhar Tq. Kandhar Dist. Nanded.
- 4) Rohini Datta Waghmare,
Age 28 years, Occupation Housewife,
R/o Sawargaon Pir, Tq. Mukhed
Dist. Nanded.
- 5) Dilip Khanderao Kamble,
Age 32 years, Occupation Service,
R/o Sawargaon Pir, Tq. Mukhed
Dist. Nanded.
- 6) Kiran Datta Waghmare,
Age 29 years, Occupation Service,
R/o Airoli Sector -4, thane.
- 7) Savita Devidas Waghmare,
Age 58 years, Occupation Housewife,
R/o Kandhar Tq. Kandhar Dist. Nanded.
- 8) Reshma Rohidas Waghmare,
Age 55 years, Occupation Housewife,

R/o Kandhar Tq. Kandhar
Dist. Nanded.

...Applicants

Versus

- 1) The State of Maharashtra
Through Police Inspector,
Kandhar Police Station,
Tq. Kandhar Dist. Nanded.

- 2) Amita Chandramani Waghmare,
Age 26 years, Occupation Housewife,
R/o Walsangi Sub Post Shirur Tajband,
Tq. Ahmedpur Dist. Latur.

...Respondents

Mr. V. V. Deshmukh, Advocate for applicants.

Ms. P. V. Diggikar, Addl. Public Prosecutor, for respondent No.1
/ State.

Mr. U. S. Patil, Advocate for respondent No.2- (Appointed)

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

DATE : 05-10-2018.

ORAL JUDGMENT : (Per SMT. VIBHA KANKANWADI, J.)

1. At the outset, learned Advocate for the applicants seeks permission to withdraw the application to the extent of applicant nos.1 to 3.

2. Permission granted. The application stands disposed of as withdrawn to the extent of applicant nos.1 to 3.

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

4. Present application has been filed by original accused persons invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure in order to quash the First Information Report vide Crime No. 185 of 2018, registered with Kandhar Police Station, Nanded, for the offences punishable under Section 498-A, 323, 506 read with 34 of the Indian Penal Code.

5. Respondent No.2 got married to applicant No. 1 on 10-05-2017. Applicant No.2 and 3 are the parents of applicant No. 1. Applicant No.4 is his sister and applicant No. 5 is the husband of applicant No.4. Applicant No.6 is his brother and applicant No. 7 and 8 are the distantly related paternal aunts of applicant No.1.

6. Respondent No.2 – informant has contended that, she stayed at Kandhar for about 15 days after marriage. Applicant No. 1 is serving in Delhi and therefore, she went with him at Delhi. She stayed there for 2-3 months. Applicants No. 2 and 3 had gone to stay with them. They were instigating applicant No. 1 by saying that his wife is not good. Applicant No. 1 used to beat her by raising suspicion over her character. She was required to face abortion due to the harassment. Thereafter, she came to stay at Kandhar. She was ill-treated by applicants by raising suspicion over her character. They demanded amount of Rs.5 lakhs from informant. She was

beaten and driven out of the house on 1-1-2018 on the count to bring money. They had asked her to give divorce to applicant No. 1 and then threatened her of dire consequence, in case of failure to give consent for divorce. Therefore, she has lodged the report.

7. The applicants have contended that, the allegations in the FIR are false and frivolous. No such incident had ever taken place as narrated in the FIR. Applicant No. 1 is a Scientist in Indian Agricultural Research Institute, New Delhi. After marriage, he had taken wife to Delhi. Informant was facing some abdominal problem in July and therefore, she was advised to have ultra sound sonography. The test was done and it was revealed that she was pregnant of 9 weeks and 6 days, but had missed abortion as the small embryo was not showing cardiac activity. She was treated at Dr. Ram Manohar Lohiya Hospital, New Delhi. Applicant No. 1 was not at Kandhar on 1-1-2018. She went to her parental house on 31-12-2017 on the ground of medical check-up. Applicant No. 1 had left Kandhar on 31-12-2017 to Nanded and then to Hyderabad. He took flight to Delhi on the same day. Informant is not ready to reside with him. He has ultimately filed petition for divorce. Applicant No. 4 to 8 are not jointly residing with applicant No. 1 to 3. Details of the events of alleged harassment have not been given and they have been kept as vague as possible. Therefore, they have prayed for quashment of the proceeding.

8. Heard learned Advocate Mr. V. V. Deshmukh appearing on behalf of applicants, learned Addl. Public Prosecutor Ms. P. V. Diggikar and learned Advocate Mr. U. S. Patil, appointed for respondent No.2. When it was pointed out to the learned advocate for the applicants that, this Court is not inclined to grant any relief to applicants No.1 to 3, he prayed for withdrawal of the application as against them.

9. The application was considered only for the allegations against the married sister-in-law applicant No.4, her husband applicant No.5, brother applicant No. 6, as well as distant relatives applicant No. 7, 8. Applicant No. 3 and 4 are residing at Sawargaon, Tal. Mukhed, Dist. Nanded, No. 4 is residing at Airoli, Thane. These places are at far distance from Delhi. Though applicant No. 7 and 8 are also residing at Kandhar, as per her own story, informant went to Delhi within 15 days of marriage. When she had returned and then for how many days she resided at Kandhar is not disclosed by her. Applicant No. 7 and 8 are not stated to be residing in the same house of applicant No. 2 and 3. No specific role has been attributed against them in respect of offence under Section 498-A of the Indian Penal Code. If at all there would have been a demand it would have been mainly by the husband and the father and mother-in-law. The perusal of the entire FIR would show that alleged harassment had started at Delhi. Applicants No. 4 to 8 were not present at that time.

There was no demand of money when she was allegedly staying at Delhi. Then she says that all the accused made demand of money in chorus, which is not possible when elders are there. Nothing is stated to have been demanded by applicants No. 4 to 8 for themselves as per the allegations in the FIR itself. So, it appears that, as a routine all the relatives of the husband have been roped. It would be futile exercise to ask applicants No. 4 to 8 to face the trial. Under such circumstance relief is required to be granted to the applicants No. 4 to 8 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) Application of applicants No. 1 to 3 stands disposed of as withdrawn.
- 2) Application of applicants No. 4 to 8 is hereby allowed.
- 3) Relief is granted in terms of prayer clause "A" to the applicants No. 4 to 8 only.
- 4) Rule made absolute in the above terms.
- 5) Fees of the appointed Advocate is quantified at Rs.3,000/- (Rupees Three Thousand Only) which shall be paid by High Court Legal Services Authority, Sub-Committee, Aurangabad.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE