

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3629 OF 2017

- 1) Bharat Bapurao Harkal,
Age : 42 years, Occu. : Labour, R/o
Room No. 7, Guruprasad Building,
Mohan Park, Ambethan Chowk, Chakan,
Tq. Khed, Dist. Pune.
- 2) Bapurao Shamrao Harkal,
Age : 72 years, Occu. : Pensioner,
R/o Shivaji Nagar, Jintur, Tq.
Jintur, Dist. Parbhani.
- 3) Tulsabai Bapurao Harkal,
Age : 68 years, Occu. : Household,
R/o as above.
- 4) Madan Bapurao Harkal,
Age : 45, Occu. : Agri,
R/o as above.
- 5) Suman Gangadhar Gingine,
Age : 47 years, Occu. : Household,
R/o Ram Nagar, Parbhani.
- 6) Gangadhar Renaji Gingine,
Age : 50 years, Occu. : Service,
R/o as above.
- 7) Kanchan Gangadhar Gingine,
Age : 25 years, Occu. : Education,
R/o as above. ...Applicants

Versus

- 1) The State of Maharashtra
Through Investigation Officer,
Police Station, Sailu,
Tq. Sailu, Dist. Parbhani.

- 2) Ranjana Bharatrao Harkal,
Age : 32 years, Occu. : Household,
R/o Mandhani, Jintur, Tq. Jintur,
Dist. Parbhani,
At present R/o Vidyanagar, Sailu,
Tq. Sailu, Dist. Parbhani. ...Respondents

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Mr. V. M. Maney, Advocate for Applicants.

Mr. M. M. Nerlikar, Addl. Public Prosecutor, for
Respondent No. 1 / State.

Mr. Milind K. Kade, Advocate for respondent No.2.

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**CORAM : T. V. NALAWADE &
SMT. VIBHA KANKANWADI, JJ.
DATE : 02-11-2018.**

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

01. 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. 143 of 2017, registered with Sailu Police Station, Tal. Sailu, Dist. Parbhani, for the offences punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

02. Respondent No. 2 got married to applicant No. 1 on 03-01-2005 at Sindhi Mangal Karyalaya, Sailu. Applicant No.1 is the husband of respondent No.2,

applicants Nos. 2 and 3 are the parents of applicant No. 1, and applicants No. 4 is brother of applicant No. 1 and applicant No. 5 is sister of applicant No. 1. Applicant No. 6 is the husband of applicant No. 5. Applicant No. 7 is the daughter of applicant Nos. 5 and 6.

03. Respondent No. 2 – informant has contended that, at the time of marriage her father had given dowry of Rs.1,00,000/- and household articles. Applicant No. 1 used to reside at Pune since beginning for his business. She went at Pune after marriage with applicant No. 1. They used to visit Mandhani, matrimonial home once in one or two months. She was treated properly by applicants. She delivered girl child on 13-05-2007, but none of the applicants were happy. They told that they wanted a boy. They asked her to bring Rs.5 lakhs from her parents for the upbringing of daughter and for business. She told that her parents are poor and are not in a position to give that much amount. Thereafter, applicants started harassing her mentally and physically. They used to keep her starved. They used to abuse and assault her. When she disclosed the said fact to her father, he came to her matrimonial home and requested the applicants to treat her properly. Applicants promised to behave properly and thereafter some days were peaceful. She delivered second

daughter on 24-04-2009. Applicants were again unhappy and started harassing her. Her husband used to assault her. When she went to Pune with husband, at that time, other applicants used to instigate applicant No. 1 to assault her. He used to assault her thereafter. Again there was attempt to resolve the dispute. It was told by the applicants that her father should give Rs.5 lakhs for extension of business. She is at her parents' house after her delivery. Applicants had gone to her parents' house on 11-03-2017 and demanded Rs.5 lakhs for taking her back for cohabitation. They were informed that amount will not be given. They started abusing her parents. When she intervened, she was assaulted. After threatening her, they went. Therefore, she has lodged the report.

04. The applicants have contended that, the applicant No. 1 and informant only used to reside at Pune. They used to go occasionally to Jintur for 3-4 days. Allegations in the FIR are baseless and made with a view to harass them. Applicant No. 2 suffered Paralysis attack in 2009 and since then he is bed-ridden. Informant went for third delivery in December 2013. After third daughter was born on 05-02-2014, applicant No. 1 had gone to Sailu. He told her to go to Jintur for rest for 1-2 months and then he would take to Pune. However, she did not go.

Second daughter is studying at Jintur in 4th standard. There is two years delay in lodging FIR. Applicant No. 5 and 6 are resident of Ram Nagar Parbhani. Applicant No. 7 is taking education at Aurangabad since June 2015. They have been falsely implicated. Therefore, they have prayed for quashment of the proceeding.

05. Heard learned Advocate Mr. V. M. Maney appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. M. M. Nerlikar and learned Advocate Mr. M. K. Kade, appearing on behalf of respondent No.2. It was submitted that applicant No. 2 has expired and therefore, application has abated against him. When it was pointed out to the learned advocate for the applicants that, this Court is not inclined to grant any relief to applicant Nos. 1 and 3, he prayed for withdrawal of the application as against them.

06. The application was considered only for the allegations against the applicant Nos. 4 to 7. Perusal of FIR would show that no specific role has been attributed against them in respect of offence under Section 498-A of the Indian Penal Code. Admittedly, applicant No. 1 and informant were separately residing at Pune for the purpose of business, since their marriage. Parents-in-laws might

have been on visiting terms with them. 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 all of them had made the demand in chorus which is not possible when elders are there. Occasional visit of informant to matrimonial home at Mandhani can not lead to inference that at that time applicants No. 4 to 7 would have been harassing her. Even the allegations have been made against niece – applicant No. 7. Further it can be seen that nothing was demanded by applicants No. 4 to 7 for themselves as per the allegations in the FIR itself. Applicants NO. 4 is resident of Mandhani and No. 5 to 7 are resident of Parbhani. So, it appears that, as a routine all the relatives of the husband have been roped. It would be a futile exercise to ask them to face trial. Under such circumstance relief is required to be granted to the applicants No. 4 to 7 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order ;

ORDER

(i) Application of applicant No. 2 Bapurao is disposed of as abated.

(ii) Application of applicant Nos. 1 and 3 is

disposed of as withdrawn.

(iii)Application of applicant Nos. 4 to 7 is
hereby allowed.

(iv)Relief is granted in terms of prayer clause
"C-1" to the applicants Nos. 4 to 7 only.

(v)Rule made absolute in above terms.

[SMT. VIBHA KANKANWADI]

JUDGE

[T. V. NALAWADE]

JUDGE

Dahibhate/-