

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3648 OF 2017

- 1) Sukhdev s/o Bhiva Aran,
Age 63 years, Occupation Pensioner,
R/o Shantinagar, Galli No.2,
Jagtap Chowk, Wanwadi,
Pune 40.
- 2) Surmabai w/o Sukhdeo Aran,
Age 53 years, Occupation Household,
R/o as above.
- 3) Sheetal w/o Amol Sonwane,
Age 30 years, Occupation Household,
R/o SRPF Group No.2, 120 Quarters,
20/10, Ram Tekdi, Haveli,
Pune – 411 022.
- 4) Amol s/o Sandipan Sonwane,
Age 32 years, Occupation Service,
R/o as above.

...Applicants

Versus

- 1) The State of Maharashtra,
Through Police Station, Yusuf
Wadgaon Tq. Kaij Dist. Beed.
- 2) Vaishali w/o Vikas Aran,
Age 24 years, Occupation Household,
R/o Gojwada Tq. Washi
Dist. Osmanabad.
At Present Mangwadgaon Tq.Kaij
Dist. Beed.

...Respondents

Mr. Ganesh J. Kore, Advocate for applicants.
Smt. P. V. Diggikar, Addl. Public Prosecutor, for respondent
No.1 / State.
Mr. S. E. Madne, Advocate for respondent No.2.

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

DATE : 20-08-2018.

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

1. Rule. Rule made returnable forthwith. By consent heard both the sides for final disposal.

2. Present application has been filed by the original accused persons in order to quash the First Information Report as well as the proceedings in Regular Criminal Case No. 116 of 2016, pending before Judicial Magistrate First Class, Kaij Dist. Beed, under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code, by invoking the inherent powers of this Court under Section 482 of Code of Criminal Procedure.

3. Before turning to the disputed facts I would like to have a glance at the admitted facts. Present respondent No.2 is the original informant. She got married to Vikas Sukhdev Aran on 19-12-2013 at village Gojwada Tq. Washi Dist. Osmanabad. Present applicants are father-in-law, mother-in-law, married sister-in-law and husband of married sister-in-law respectively of the informant. After marriage informant went to her matrimonial home for cohabitation.

4. In her First Information Report, the informant has contended

that, she was treated properly for about three months after the marriage. However, thereafter mother-in-law started saying that, none has been given by her parents in the marriage. Father-in-law, sister-in-law and husband of sister-in-law used to harass her. When she disclosed the said fact to her husband, he used to say that he would persuade his relatives. Thereafter also all the applicants started demanding amount of Rs.2,00,000/- to bring four wheeler. She was harassed on that count. In the meantime she became pregnant and went to her parental house at Mangwadgaon for delivery. Son was born to her on 18-10-2014. In order to take her back, the father-in-law had come and left her to Pune. At that time the father-in-law asked her as to why she has not brought the amount. She was asked to do household work all the time, starved. Her husband got job in S.R.P.F. and he is under training at Pune since 10-04-2015. Thereafter all the present applicants assaulted her, abused her on the count that she has not brought amount for purchasing vehicle, and thereafter, her father-in-law left her at her parental house. Father-in-law told her parents that, she will not be allowed to cohabit unless she brings the amount. All the applicants went to Mangwadgaon on 20-07-2015 and asked her as to why she is not coming with amount of Rs.2,00,000/-, and then told her parents that, they would be required to behave as they want. Her parents told the applicants that, the informant should not be

harassed. At that time all the applicants abused her, her mother-in-law pushed her and all of them gave threat to kill and left. Thereafter, she went to Police Station and lodged the First Information Report. On the basis of the said report, crime was registered vide Crime No. 144 of 2015 and investigation was undertaken.

5. During the course of the investigation, panchanama of the spot was executed, statements of the witnesses were recorded and after the completion of the investigation charge-sheet was filed. The said case has been registered as Regular Criminal Case No. 116 of 2016.

6. The applicants have contended that, the First Information Report has been lodged against them with malafied intention. Informant was residing with her husband after the marriage separately. Applicant No.3 got married in the year 2014 and since then she is residing with her husband. Applicant No.4 is serving in the Motor Vehicle Department of S.R.P.F., Pune. On 10-04-2015 as well as on 20-07-2015 he was on duty and was not present at all Mangwadgaon. All the relatives have been unnecessarily roped. The delay in lodging the report has not been explained. The contents of the First Information Report and the evidence that has been collected does not disclose commission of any offence. They therefore, prayed for quashing of First Information Report as well as

the proceedings.

7. Heard learned advocate Mr. G. J. Kore, appearing on behalf of the applicants - original accused, learned Addl. Public Prosecution Smt. P. V. Diggikar for respondent No.1 - State, and learned advocate Mr. S. E. Madne, appearing on behalf of respondent No.2 - informant.

8. The contents of the First Information Report have been reflected in para No.2, and therefore, they are not reproduced here again. The perusal of the contents of the First Information Report would show that, specific allegations have been made regarding demand of money by mother-in-law and by father-in-law. However it is to be noted that, the sister-in-law and her husband are admittedly residing at Pune, and therefore, though she claims that earlier also she was harassed by applicants No.3 and 4, no overt act is attributed to them. She was specific in respect of two dates i.e. 10-04-2015 and 20-07-2015. After the delivery she was taken back by applicant No.1 and left at Pune but she does not say that immediately thereafter any incident had taken place involving applicants No.3 and 4. The alleged assault by applicants No.3 and 4 is stated to be on 10-04-2015 and 20-07-2015. The statements of witnesses who are the mother, father and sister of the informant would show that, they had given statements only on the basis of

information supplied by the informant. As regards applicant No.4 is concerned, a certificate issued by Police Inspector, Motor Vehicles Department S.R.P.F. Group No.2, Pune dated 22-12-2015 shows that, on both the occasions applicant No.4 was present on his duty. Even independently it can be seen that, some omnibus statements have been made in respect of applicants No.2 and 3.

9. In one of the recent Judgments pronouncement in, *K. Subba Rao and Ors. Vs. The State of Telangana*, represented by its Secretary Department of Home and Others, *Criminal Appeal No. 1045 of 2018 (Arising out of SLP (Cri.) No. 3286 of 2016)*, decided on 21-08-2018, it has been observed by the Hon'ble Apex Court that,

"The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out."

10. It also appears that, the husband of the informant had filed petition for Restitution of Conjugal Rights against the informant bearing Hindu Marriage Petition No. 30 of 2015, before Civil Judge Senior Division At Bhoom Dist. Osmanabad. It came to be compromised on 02-07-2016, since the informant had decided to resume cohabitation. She has not made any allegations against the husband.

11. Under such circumstance, taking into consideration the entire

evidence on record, at this stage it appears that, no evidence was collected as against applicants No.3 and 4. Definitely certain evidence is there as against applicants No.1 and 2, and therefore, we proceed to pass following order.

ORDER

- 1) The application of applicant Nos.1 and 2 is dismissed.
- 2) The application of applicants No.3 and 4 is allowed. Relief is granted to applicants No.3 and 4 in terms of prayer Clause (B).
- 3) Rule is made absolute in those terms.
- 4) The fees of the appointed counsel will be paid by the Legal Aid.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.