

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2158 OF 2018

- 1) Ankush s/o Nagnath Dapkar,
Age 66 years, Occupation Pensioner,
R/o Pattiwadgaon Tq. Ambajogai
Dist. Beed.
- 2) Vimal w/o Anush Dapkar,
Age 64 years, Occupation Household,
R/o as above.
- 3) Kavita w/o Prabhakar Holkar,
Age 38 years, Occupation Household,
R/o Karepur Tq. Renapur
Dist. Latur.
At Present Shri Swami Nagar, Behind
Khandsari, Ambajogai Road, Latur
Tq. Dist. Latur.
- 4) Prabhakar s/o Dattatray Holkar,
Age 51 years, Occupation Service as
Assistant Teacher,
R/o as above.
- 5) Sangita w/o Santosh Divate,
Age 36 years, Occupation Household,
R/o Ramwadi Tq. Renapur Dist. Latur.
At Present Behind Bansode Hospital,
yashwant Nagar, Ambajogai Road,
Latur Tq. Dist. Latur.
- 6) Santosh s/o Shivaji Divate,
Age 40 years, Occupation Service,
As Assistant Teacher,
R/o as above.
- 7) Sonali w/o Tulshidas Kale,
Age 34 years, Occupation Household,
R/o Nitin Collage, Dnyaneshwar Nagar,

Devanandra Pathri Tq. Pathri
Dist. Parbhani.

- 8) Sarala @ Gayatri w/o Datta Kale,
Age 30 years, Occupation household,
R/o Khadakpura, Parlives, Dhangar Galli,
Ambajogai Tq. Ambajogai Dist. Beed. ...Applicants

Versus

- 1) The State of Maharashtra
Through Police Inspector,
Police Station, Gangakhed,
Tq. Gangakhed Dist. Parbhani.
- 2) Meera @ Janabai w/o Jayash Dapkar,
Age 27 years, occupation Business,
R/o Pattiwadgaon Tq. ambajogai
Dist. Beed. At Present Padegaon
Tq. Gangakhed Dist. Parbhani. ...Respondents

Mr. R. D. Khadap, Advocate for applicants.
Ms. D. S. Jape, Addl. Public Prosecutor, for respondent No.1 /
State.
Mr. Vinesh Solshe, Advocate for respondent No.2.

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

DATE : 05-10-2018.

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

1. At the request of learned Advocate for the applicants, leave granted to correct the name of husband of applicant No.8 as Datta.
2. At the outset, learned Advocate for the applicants seeks permission to withdraw the application to the extent of applicant Nos.1 and 2.

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 The application stands disposed of as withdrawn to the extent of applicant Nos.1 and 2.

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

5. 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. 208 of 2018, registered with Gangakhed Police Station, Parbhani, for the offences punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

6. Respondent No.2 got married to one Jayesh Ankush Dapkar on 08-05-2014. Applicant No.1 and 2 are the parents of Jayesh. Applicant No.3 is his sister and applicant No. 4 is the husband of applicant No.3. Applicant No.5 is his sister and applicant No. 6 is the husband of applicant No.5. Applicants No. 7 and 8 are the married sisters of Jayesh.

7. Respondent No.2 – informant has contended that, she was treated properly for about six months at her matrimonial house. Thereafter, they started demanding Rs.12 lakhs for giving donation to the school. They asked her to bring the said amount from her father. She informed her father accordingly. Her father gave amount

of Rs.12 lakhs as demanded, still all the accused started harassing her on the count that she is not good looking. She has not conceived yet. They used to give pinching words to her. Her husband was addicted to liquor. He used to beat her under the influence. Applicants were threatening her that Jayesh will perform second marriage. They had not given medical aid to her when she was ill. They told her to go to her parents' house and then promised that they will bring her back after her recovery. She called her father and went with him. Her husband and his relatives were harassing her by giving telephone call and were asking her not to return to matrimonial home. She was abused and driven out of the house, when she went for cohabitation 15 days prior the FIR. She has expressed her desire to stay with her husband. Husband and relatives are not ready to take her back and therefore, she has lodged the report.

8. The applicants have contended that, applicant No. 3 to 8 are not jointly residing with Jayesh. Applicant No. 3 and 4 reside at Swami Samarth Nagar, at Latur. Applicant No. 5 and 6 are residing at Yashwant Nagar, Latur. Applicant No. 7 is residing at Dnyaneshwar Nagar, Pathri, Dist. Parbhani and applicant No. 8 is residing at Ambajogai, Dist. Beed. FIR is false and based on concocted story. Jayesh was in service prior to the marriage. Therefore, there is no question of any donation/ demand of Rs.12 lakhs. Respondent No. 2

has filed suit for maintenance. The allegations in the said proceedings are different. Jayesh has filed proceedings for divorce before Ambajogai Court. Applicant No. 1 to 8 have no concern with acts of husband of respondent No. 2. Details of the events have not been given and they have been kept as vague as possible. Therefore, they have prayed for quashment of the proceeding.

9. Heard learned Advocate Mr. R. D. Khadap appearing on behalf of applicants, learned Addl. Public Prosecutor Ms. D. S. Jape and learned Advocate Mr. Vinesh Solshe, appearing on behalf of 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 and 2, he prayed for withdrawal of the application as against them. Further, it will not be out of place to mention here that before the arguments were heard, it was asked to learned Advocate for applicants as to whether husband is ready to go before Mediation in order to see whether settlement is possible, though he is not a party to this proceeding. Husband was present in the Court and a statement was made that he is not ready to explore the possibility of settlement.

10. The application was considered only for the allegations against the married sister-in-law applicant No.3, 5 and their husband applicant No.4 and 6 respectively, as well as other married sister-in-

law applicant No. 7, 8. Applicant No. 3 to 6 are residing at Latur and No. 7 and 8 are residing in Parbhani and Beed districts, which are away from Pattiwadgaon, Tal. Ambajogai, Dist. Beed. It also appears that they were married prior to the marriage between Jayesh and respondent No. 2. 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 all of them had made the demand in chorus which is not possible when elders are there. Nothing was demanded by applicants No. 3 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. 3 to 8 to face the trial. Under such circumstance relief is required to be granted to the applicants No. 3 to 8 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) At the request of learned Advocate for applicants, leave is granted to correct the name of husband of applicant No. 8 as Datta.
- 2) Application of applicants No. 1 and 2 stands disposed of as withdrawn.

- 3) Application of applicants No. 3 to 8 is hereby allowed.
- 4) Relief is granted in terms of prayer clause "B" to the applicants No. 3 to 8 only.
- 5) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.