

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION No.2171 OF 2018

- 1 Sandip Bhagwan Baviskar,
Age 30 yrs., Occ. Education,
- 2 Shri Bhagwan Mahadu Baviskar,
Age 70 yrs., Occ. Retired.
- 3 Sau. Lilabai Bhagwan Baviskar,
Age 62 yrs, Occupation : Household,
- 4 Smt. Vijayanti Ramdas More,
Age 62 yrs, Occ. Household,

Applicants no.01 to 04
R/o. Parees Park,
Plot No.17, Chopda,
Taluka Chopda, Dist. Jalgaon.

- 5 Prakash Bhagwan Baviskar,
Age 35 yrs, Occ. Service,
- 6 Meghana Prakash Baviskar,
Age 32 yrs, Occ. Household,

Applicants no.05 & 06
R/o. Lotus Society,
New Talegaon, Pune.

- 7 Amil Hiranman Mahale,
Age Major, Occ. Service,
R/o S2, CEU Pereira
Building, Campala Colony,
Miramar, Goa.

... Applicants.

... Versus ...

- 1 The State of Maharashtra.

2 Sau. Seema Sandip Baviskar,
 Age 24 yrs., Occ. Household,
 R/o Siddhivinayak Colony,
 Chopda, Tq. Chopda, Dist. Jalgaon.

... **Respondents.**
(No.2–Original complainant)

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*Mr. R.S. Shinde, Advocate, holding for
Mr. U.A. Bhadgaonkar, Advocate, for the applicants.*

*Ms. V.S. Choudhary, Additional Public Prosecutor;
for respondent No.01.*

*Mr. Ravindra B. Narwade Patil, Advocate, for
respondent No.02.*

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

DATE : 26TH NOVEMBER 2018

JUDGMENT : (PER : SMT. VIBHA KANKANWADI, J.)

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

2 Present application has been filed invoking inherent powers of
this Court under Section 482 of the Code of Criminal Procedure Code, 1973
quashing First Information Report vide Crime No.22/2018 registered with

Chopda Police Station, Dist. Jalgaon for the offence punishable under Sections 498, 420, 354(A)(2), 323, 504, 506 r/w 34 of I.P.C.. It appears that after the investigation charge sheet has also been filed and the proceedings R.C.C. No.91/2018 is pending before Judicial Magistrate First Class, Chopda.

3 Respondent No.2 got married to accused No.1 on 19.12.2016. Applicant No.1 is her husband, applicant Nos.2 & 3 are the parents-in-laws, applicant No.4 is the sister of applicant No.2, applicant No.5 is the brother of applicant No.1, applicant No.6 is the wife of applicant No.5, applicant No.7 is the husband of sister of applicant No.1.

4 The respondent had contended that applicant No.4 had suggested the name of applicant No.1 as bridegroom and thereafter the marriage was performed. At the time of settlement of marriage, the applicant Nos.1 & 2 as well as applicant No.4 had given an impression that applicant No.1 is MBA and working with Health Department at Pune since four years, getting salary of Rs.40,000/- per month. Her parents had given gold weighing 18 grams as 'Stree Dhan' and other household articles. Her father had incurred expenses to the tune of Rs.5,00,000/- at the time of marriage. After marriage she went to her matrimonial home. She was treated properly for about 15 days by applicant Nos.1 to 3. Thereafter, when she asked about the service to applicant No.1, he told that he has taken long leave and after it is finished he would resume the duty. Thereafter, she started making inquiry in respect of his job

and then the applicant Nos.1 to 4 started harassing her mental as well as physical. Applicant No.2 snatched her mobile and started to use the Whatsapp and Face book account in her name. On one day her husband told that he would go to Pune and then left the house. Thereafter, applicant Nos.3 & 4 told her that applicant No.1 is not doing anything to earn but he is a disciple of one Thakursingh Maharaj and stays in his Ashram since childhood. They also told that she should not disclose anything regarding his educational qualification as well as service to anybody. Whenever she tried to make inquiry, she was assaulted. Applicant No.2 on ill eye on her and uttered such words which would outrage her modesty. He used to stay outside the bathroom whenever she used to come from bathroom after having bath. When she tried to convey the said fact to her husband, his phone used to be switched off all the time. She was never left alone by applicant Nos.2 & 3, so that she should not disclose the real fact to anybody. When her husband returned after about 15 days and when she tried to say something, he raised suspicion over her character and went to Pimpalner after about 10 to 15 days. He, thereafter, left to Chandigarh for the programme of Thakursingh Maharaj between 5th of March to 11th of March, 2017. She got confirmed that whatever was stated about applicant No.1 at the time of settlement of marriage was false. When she had tried to convey this fact to applicant No.6 on phone, she advised that she should not behave as per wish of applicant Nos.2 & 3, otherwise she will have to suffer.

She took a decision to return to her parents' house on 27.04.2017. On that day, applicant No.7 gave a call on the mobile phone of applicant No.2 and threatened that she should not disclose anything to her parents, on the contrary, she should bring amount of Rs.15,00,000/- from her parents for business to be started by applicant No.1, so that he can be with her. She went to her parents house and disclosed all the facts to her parents. Thereafter, on 05.05.2017 applicant Nos.1 to 3 came to her parents house, picked up quarrel, raised suspicion over her character and after abusing her parents left. She ultimately lodged the report on 16.02.2018.

5 The applicants have contended that the contents of the FIR are false and concocted. Respondent No.2 had left matrimonial home on her own wish after residing with her husband for about 4 months only. Within that period of 4 months it is hard to commit any offence. It is stated that the Family Welfare Committee, Taluka Legal Aid Committee, Chopda, Tq. Chopda had conducted an inquiry and had come to the conclusion that no offence has been committed. Respondent No.2 had stated before the committee that she is not ready and willing to go for cohabitation. Applicant Nos.5 to 7 have been unnecessarily harassed merely on the ground that they are close relatives, they are residing at Pune and Goa. In fact, the respondent No.2 was insisting her husband to reside separately from the joint family, which he refused and as a result of which she has filed false complaint.

6 Heard learned Advocate Mr. R.S. Shinde holding for Mr. U.A. Bhadgaonkar, Advocate for the applicants, learned APP Mr. V.S. Choudhary for respondent No.1 and learned Advocate Mr. R.B. Narwade Patil for respondent No.2. When this Court expressed that the Court is not willing to give any relief to applicant Nos.1 to 4, application came to be withdrawn as against them.

7 The application is considered to the extent of applicant Nos.5 to 7 only. Perusal of the FIR would clearly show that during the period of cohabitation of the respondent No.2 with her husband at her matrimonial home, applicant Nos.5 to 7 were not present or residing. Applicant Nos.5 and 6 are residing at Pune in connection with the service of applicant No.5, applicant No.7 is serving at Goa. Merely on the allegation of some phone calls it is hard to believe that there would have been any harassment. Further, the FIR does not say that there were frequent calls between her and applicant Nos.5 to 7. Omnibus statement has been made in respect of harassment and ill-treatment by applicant Nos.5 to 7. It appears that they being the close relatives of applicant No.1 have been dragged. It would be futile exercise to ask them to face the trial. Case is made out for exercise of inherent powers of this Court under Section 482 of Cr.P.C. in view of the guidelines given by **State of Haryana and others vs. Ch. Bhajan Lal and others** reported in **AIR 1992 SC 604**. Hence following order.

ORDER

- (a) The application is partly allowed.
- (b) The application to the extent of applicants No.1 to 4, namely, Sandip Baviskar, Bhagwan Baviskar, Lilabai Baviskar and Vaijayanti More, respectively, is disposed of as withdrawn.
- (c) The application to the extent of applicants Nos.5, 6 and 7, namely, Prakash Baviskar, Meghana Baviskar and Amit Mahale, respectively, is allowed. Relief is granted to them in terms of prayer clause "B".
- (d) Rule made absolute in the above terms.

(Smt. Vibha Kankanwadi)
JUDGE

(T.V. Nalawade)
JUDGE

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