

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

Criminal Application No. 02200 of 2018

District : Beed

1. Digambar Abhiman Gondwale,
Age : 26 years,
Occupation : Student,
Residing at : Rajnigandha
Housing Society,
Walekar Wadi, Chinchwad,
Pune.
2. Jayshree Abhiman Gondwale,
NEE Jayashree Anna Humbe,
Age : 24 years,
Occupation : Govt. Service,
Residing at : Van-Vasahat,
in front of Mahadji Shinde
Smarak, Wadgaon,
Taluka Maval, Dist. Pune.

.. Applicants.

versus

1. The State of Maharashtra,
Through Police Inspector,
Neknur Police Station,
Dist. Beed.
2. Swati Ashruba Gondwale,
Age : 31 years,
Occupation : housewife,
C/o. Nivrutti Naikwade,
R/o. Rui-Ghavan,
Taluka & Dist. Beed.

.. Respondents.

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*Mr. Shambhuraje V. Deshmukh, Advocate, for the
applicants.*

*Mr. R.V. Dasalkar, Additional Public Prosecutor,
for respondent no.01.*

*Mr. Syed Parvez, Advocate (appointed), for
respondent no.02.*

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

DATE : 30TH OCTOBER 2018

JUDGMENT [Per Smt. Vibha Kankanwadi, J.] :

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

02. Present petition has been filed by the original accused No. 4 and 5 under inherent powers under Section 482 of the Code of Criminal Procedure to quash and set aside First Information Report vide C. R. No. 0187 of 2017 dt. 03-08-2017 registered with Neknur Police Station, Dist. Beed and charge-sheet bearing No. 113 of 2017 filed before Judicial Magistrate (First Class), Beed, for offences punishable under Section 498A, 323, 504, 506 r/w. Section 34 of the Indian Penal Code.

03. Respondent No.2 got married to Aashruba Abhiman Gondawale on 11-05-2004. Applicant No.1 is the brother and applicant No. 2 is the sister of husband of respondent No.2.

04. Respondent No.2 – informant has contended

that, her father had given gift articles and dowry at the time of marriage. After marriage she went to her matrimonial house to cohabit with her husband. She was treated properly for about 5 years. Thereafter her husband started assaulting her on one or the other pretext. She has daughter, but then he used to say that she has not given son to him. Her husband was demanding amount of Rs.2 lakhs for opening a grocery shop. He was also asking the agricultural land in the name of informant's mother to be given in his name. She informed her mother about the harassment. Her mother had given him understanding. Informant was then treated properly for some days. However, her husband, his parents, brother and sister drove her out of the house after assaulting her with her daughter on the count of demand of Rs.2 lakhs. No compromise arrived at Women's Cell, Beed. Therefore, she has lodged the report.

05. The applicants have contended that, applicant No. 1 has shifted to Pune in 2012. Prior to that he was residing at Osmanabad in connection with his studies. He is preparing himself for competitive exams. He is pursuing various courses also at Pune in order to get a job. He has cleared MSCIT course and typing test. He had joined library at Pimpri-Chinchwad for preparing himself for exams. Applicant No. 2 was selected as Forest Guard at Pune and she is in service since 09-12-2013. She is also residing at Pune in

connection with her service. She was on duty on the alleged date of driving out of informant. No specific role has been attributed to them. They have been unnecessarily roped. The statements of the witnesses are stereo typed. The allegations are vague. Therefore, they have prayed for quashment of the proceedings.

06. Heard learned Advocate Mr. S. V. Deshmukh appearing on behalf of petitioners, learned Addl. Public Prosecutor Mr. R. V. Dasalkar and learned Advocate Mr. Syed Parvez, appointed for respondent No.2.

07. Informant married to brother of present applicants in 2004. She has stated that she was treated properly for about 5 years. Thereafter, her husband started harassing her. Allegations involving present applicants is only in respect of incident dt. 17-10-2016. Statements of the witnesses are also on the same line. Applicant No. 1 has produced on record his bank passbook, admission card, etc. showing that he is residing at Pune since 2012. Applicant No. 2 has also produced on record documents showing her appointment with Forest Department and her posting at Pune since 2013. Thus, none of the applicant was residing at Aandrud, where informant and her husband were residing. No doubt, it was the permanent address of both the applicants, but they were ordinarily

residing at Pune after 2012. Their causal visits to their house at Aandrud can not be imagined as purposeful in order to harass informant. General allegations have been levelled against them about incident dt. 17-10-2016. No specific role has been attributed against them in respect of offence under Section 498-A of the Indian Penal Code. The allegation of demand of amount for opening grocery shop is against husband only. There appears no prima facie case against applicants attracting offence punishable under Section 498A of Indian Penal Code. It appears that, as a routine all the relatives of the husband have been roped. It would be futile exercise to ask applicants to face the trial with such kind of evidence. Under such circumstance, relief is required to be granted to the applicants by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure.

08. Hence, the following order :-

(a) The application is allowed.

(b) Relief is granted in terms of prayer clause "B".

(c) Rule made absolute in the above terms.

09. Learned Advocate Mr. Syed Parvez was appointed to represent the cause of respondent no.02. His fees is quantified at Rs. 3,000/- [Rupees three

thousand] which shall be paid to him by the High Court
Legal Services Sub-Committee at Aurangabad.

(Smt. Vibha Kankanwadi)
JUDGE

(T.V. Nalawade)
JUDGE

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