

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2285 OF 2018

- 1) Rajesh s/o. Naresh Jadhav,
Age : 35 years,
Occupation : Service,
R/o. S.B.I. Quarters,
8/1, Near Ambedkar Nagar,
N-7, CIDCO, Aurangabad,
Taluka & Dist. Aurangabad.
 - 2) Naresh s/o. Deorao Jadhav,
Age : 65 years,
Occupation : Retired,
R/o. Balaji Galli,
Near Bus Stand,
Sindkhed Raja,
Taluka Mehkar,
Dist. Buldhana (M.S.).
 - 3) Rajani w/o. Rajesh Bodhade,
Age : 37 years,
Occupation : Household,
R/o. Navodaya Vidyalaya Quarters,
Padhana, Dist. Khandwa
(State of Madhya Pradesh).
- ...Applicants

Versus

- 1) The State of Maharashtra
Through Police Inspector,
Police Station, CIDCO,
Aurangabad, Dist. Aurangabad.
- 2) Pallavi w/o. Rajesh Jadhav,
Age : 30 years,
Occupation : Household,
R/o. S.B.I. Quarters,
8/1, Near Ambedkar Nagar,
N-7, CIDCO, Aurangabad,
Taluka & Dist. Aurangabad,
Presently residing at Lokshahi

Colony, Thakre Nagar, N-2,
CIDCO, Aurangabad,
Tal. & Dist. Aurangabad.

...Respondents

Mr. N. T. Tribhuwan, Advocate for applicants.
Mr. S. J. Salgare, Addl. Public Prosecutor, for respondent
No.1 / State.
Advocate for respondent No.2- absent.

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

DATE : 01-10-2018.

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

1. At the outset, learned Advocate appearing for the applicants seeks permission to withdraw the application to the extent of applicants no.1 and 2.
2. Permission granted. The application stands disposed of as withdrawn to the extent of applicant nos.1 and 2.
3. Rule. Rule made returnable forthwith. By consent, heard finally.
4. 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. 144 of 2018, registered with CIDCO Police Station, Aurangabad for the offences punishable under Section 498-A, 323, 504, read with 34 of the Indian Penal Code. Charge-sheet came to be filed during the pendency of application vide R. C. C. No.

1157 of 2018 before Judicial Magistrate First Class, Aurangabad. Prayer is also made for quashing the said proceedings.

5. Respondent No.2 got married to applicant No.1 on 15-12-2013 at Aurangabad. Applicant No.1 is the husband of respondent No.2, Applicant No.2 is father-in-law. Applicant No. 3 is married sister-in-law of respondent No. 2.

6. Respondent No.2 – informant has contended that, at the time of marriage her father had given domestic articles, jewellery. Her father had incurred expenditure of Rs.8,00,000/- for the marriage. She was treated properly for one month after marriage by the applicants at her matrimonial home. After the festival of Sankrant on 14-01-2014, all the applicants started harassing her on the count that they were not properly honoured at the time of marriage. They used to give pinching words and abuse her by saying that they have not got proper daughter-in-law. Applicants were harassing her on trifle matters. She used to convey the said fact to her mother on phone. Applicant No. 2 had abused her in the month of February 2014 on the ground that she had not greeted him by saying "Good Morning". He instigated applicant No. 1 and then her father was called. He could not come, but brother of respondent No. 2 came. Applicants made allegations against her to her brother. She was driven out of the house, at that time, on the ground of not greeting father-in-law, not able to cook meals properly and her behaviour is

not good. She was then again left at her matrimonial home on 14-02-2014.. Thereafter, applicant No. 3 had delivered child at Khandwa in Madhya Pradesh. Respondent No. 2 was sent there for taking care of the child as applicant No. 3 was serving. She stayed there for few days. Applicant No. 3 used to scold her in the evening by saying that she is not able to prepare food properly and look after the child properly. She was starved at that time. She had narrated the incidents to her parents. Thereafter on the say of applicant No. 2, applicant No 1 started demanding amount of Rs.25 lakhs. She was driven out of the house on 30-07-2014 by saying that she should not return without money. Applicants did not take her back for cohabitation. She had given complaint application to Mahila Takrar Kendra on 13-01-2018, but there was no compromise. Therefore, she has lodged the report.

7. The applicants have contended that, the alleged incident had taken place in 2014 and FIR is lodged in 2018 i.e. after about 4 years, therefore, on this count alone, charge-sheet should be quashed. They have been implicated in a false complaint. Applicant No. 3 is employed as teacher in a school at Khandwa in Madhya Pradesh. She has been unnecessarily roped. Applicant No. 2 is a retired Military person. He resides at his village. He was not at all residing with applicant No. 1 and respondent No. 2. In her another proceeding under Domestic Violence Act, respondent No. 2 has not made any allegations against father-in-law. Petition filed by applicant

No. 1 for divorce has been dismissed and the petition filed by respondent No. 2 for restitution of conjugal rights has been allowed. Only omnibus statements are made about alleged harassment. 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.

8. Heard learned Advocate Mr. N. T. Tribhuwan appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. S. J. Salgare. Advocate appearing on behalf of respondent No.2 was absent when matter was called out. 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.

9. The application was considered only for the allegations against the married sister-in-law applicant No.3. No specific role has been attributed against her in respect of offence under Section 498-A of the Indian Penal Code. She is resident of Khandwa in Madhya Pradesh. Applicant No. 3 got married prior to the marriage between respondent No. 2 and applicant No. 1. Visits of applicant No. 3 to the house of applicant No. 1, can not be termed as visits with an intention to commit crime. It has been tried to be said that respondent No. 2 was left at Khandwa for taking care of the child of applicant No. 3. Respondent No. 2 has intentionally not given the

period of her stay at Khandwa. It appears that applicant No. 3 had delivered child in June 2014. It is but natural that she would be on maternity leave for some months. There was no question of leaving the newly born child with respondent No. 2 only during that period. It appears to be the exaggeration. It is alleged that there was demand of amount to the respondent No. 2. If at all there would have been a demand it would have been mainly by the husband, the father-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 applicant No. 3 for herself as per the allegations in the FIR itself. So, it appears that, as a routine the relative of the husband especially sister-in-law has been roped. It would be futile exercise to ask applicant No. 3 to face trial. Perusal of the charge-sheet would also make it clear that none of the witnesses have attributed specific role to the applicant No. 3. Under such circumstance relief is required to be granted to the applicant No. 3 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) Application of applicant No. 3 is hereby allowed.
- 2) Relief is granted in terms of prayer clause "A" in respect of charge-sheet, to the extent of applicant no.3. R. C. C. No. 1157 of 2018 pending before

Judicial Magistrate First Class, Aurangabad is hereby quashed and set aside to the the extent of applicant No. 3.

3) Application to the extent of applicants No.1 and 2 is hereby disposed of as withdrawn.

4) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.