

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

CRIMINAL APPLICATION NO. 4064 OF 2017

1. Bayanabai w/o Namdevrao Jaymehtre,
Age 56 years, Shardanagar, near
Gita Nagar Nanded, Tq. Nanded,
Dist. Nanded.
2. Balaji s/o Namdevrao Jaymehtre,
Age- 40 years, Occupation- Service,
R/o Gautam Colony, House No.31,
P-3, Shivaji Nagar Chawal, Dist. Mumbai.
3. Deepa w/o. Balaji Jaymehtre,
Age- 33 years, Occupation- Household,
R/o Gautam Colony, House No.31,
P-3, Shivaji Nagar Chawal, Dist Mumbai. ... **APPLICANTS**

VERSUS

1. The State of Maharashtra,
Through the Office of the Public
Prosecutor, Criminal Appellate Side,
High Court, Bombay.
2. Priyanka w/o Somesh Jaymehtre,
Age- 32 years, Occu- Service,
C/o. Raosaheb Vithalrao Vadya,
Opp. Maheshwari Marriage Hall,
Phule Nagar, Jawlabazar, Tq. Aundha,
Dist. Hingoli. ... **RESPONDENTS**

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Mr. Ganesh P. Shinde, Advocate for Applicants.
Mr. S. J. Salgare, APP for Respondent No.1 / State.
Mr. Sudhir K. Chavan, Advocate for Respondent No.2.

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

DATE : 20th August, 2018.

JUDGMENT: (Per T. V. Nalawade, J.)

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

2 The proceeding is filed under Section 482 of the Code of Criminal Procedure for relief of quashing of FIR No.192 of 2017, registered with Vimantal Police Station, District Nanded, for the offences punishable under Sections 498-A, 494, 323, 504, 506 read with 34 of the Indian Penal Code.

3 Both the sides are heard.

4 The crime is registered on the basis of report given by Respondent No.2, Priyanka. She was given in marriage to the son of Applicant No.1 on 2nd June, 2009. It appears that she has been living with her parents since 18th April, 2011. She has made allegations that her husband then married second wife and even third wife and she

came to know about the subsequent marriages when her father-in-law died and she had gone to the place of husband on that occasion. Submissions made show that the husband has filed proceeding under Section 9 of the Hindu Marriage Act for restitution of conjugal rights against Priyanka. She has filed reply in the said proceeding and the reply shows that after the marriage, for some time, she had lived in Parbhani and after April, 2011, she had no contact with the husband. The FIR came to be given on 18th June, 2017.

5 Some record is produced by Applicant Nos.2 and 3, who are real brothers of the husband and wife of Applicant No.2. This record shows that Applicant No.2 is in service in Bombay City Civil and Sessions Court as a clerk and he is living in Mumbai at the address, which is given to the office. The learned counsel for the Complainant submitted that though Applicant No.2 is serving in Mumbai, he is living permanently at Nanded with Applicant No.1, mother of the husband. There is no such contention made in the complaint. Further, from 2011, the wife was living with the parents and it can be said that she approached police only after learning about two more marriages of the husband. Thus, the main allegations

are as against the husband and not as against Applicants Nos.2 and 3. However, in view of the nature of allegations, it can be said that the allegations are as Applicant No.1, mother of the husband also. During argument, the learned counsel for Applicant No.1, on instructions, submitted that he wants to withdraw the application of Applicant No.1. In the result, the following order is passed:

ORDER

- I. The application of Applicant No.1 is disposed of as withdrawn.
- II. The application of Applicant Nos.2 and 3 is allowed. Relief is granted to them in terms of prayer clause (B).
- III. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T. V. NALAWADE, J.]

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