

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

CRIMINAL APPLICATION NO. 5170 OF 2014

- 1) Raju Kasam Tadavi, Age 44 years,
Occ. Service - dismissed as withdrawn.
- 2) Irshad Raju Tadavi, Age 35 years,
Occ. Housewife.
- 3) Khatunbee Kasam Tadavi, Age 70
years, Occ. Housewife.
Applicants No. 1 to 3 are R/o. Swapna
Nagri Housing Society, Room No. 2,
Ground Floor, Jadhav Galli, Badlapur,
Tq. Ambarnath, Dist. Thane.
- 4) Hajrabee Rashid Tadavi, Age 50 years,
Occ. Housewife, R/o. Amoda, Tq.
Yawal, Dist. Jalgaon.
- 5) Chhanabai Rashid Tadavi, Age 48
years, Occ. Housewife, R/o. Lohara,
Tq. Raver, Dist. Jalgaon.
- 6) Sayrabee Suleman Tadavi, Age 40
years, Occ. Housewife, R/o.
Savkheda, Tq. & Dist. Jalgaon.
- 7) Safiya Firoz Tadavi, Age 35 years,
Occ. Housewife, r/o. Hari Vitthal
Nagar, Jalgaon, Tq. & Dist.
Jalgaon.
- 8) Mehmud Kasam Tadavi, Age 38
years, Occ. Agril. R/o. Lohara,
Tq. Raver, Dist. Jalgaon.

- 9) Razzak Nawab Tadavi, Age 55 years, Occ. Service, R/o. Badlapur, Tq. Ambarnath, Dist. Thane.
- 10) Mardan Roshan Tadavi, Age 56 years, Occ. Service, R/o. Bhiwandi, Mumbai.
- 11) Masum Gulab Tadavi, Age 65 years, Occ. Agriculture.
- 12) Jubeda Masum Tadavi, Age 50 years, Occ. Housewife.

Applicants No. 11 and 12 are
R/o. Moharad, Tq. Chopda,
Dist. Jalgaon.

- 13) Rabiya Sharif Tadavi, Age 29 years, Occ. Housewife.
- 14) Sharif Bashir Tadavi, Age 35 years, Occ. Service.
- 15) Yesubai Bashir Tadavi, Age 65 years, Occ. Housewife.

Applicants No. 13 to 15 are
R/o. Badlapur, Tq. Ambarnath,
Dist. Thane.

... **Applicants**
(Original accused)

VERSUS

1. The State of Maharashtra.
Through Police Inspector,
MIDC Police Station, Jalgaon,
Tq. & Dist. Jalgaon.
2. Akhtarbee Raju Tadavi, Age 40 years, Occ. Housewife, C/o.

Liyakat Buran Tadavi, R/o.
Tambapur, near Shah Auliye
Masjid, Jalgaon, Tq. & Dist.
Jalgaon.

... **Respondents.**

(respondent No. 2 is original
complainant)

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Advocate for Applicants : Mr. V.B. Patil.
APP for respondent No. 1/State : Mr. M.M. Nerlikar.
Advocate for respondent No. 2 : Mr. Imran Khan, h/f Mr. S.S.
Kazi.

**CORAM: T.V. NALAWADE &
K. L. WADANE, JJ.**

DATE : 6th AUGUST, 2018.

JUDGMENT (PER K.L. WADANE, J)

1. Rule. Rule made returnable forthwith. With the consent of the parties, this application is taken up for final hearing. Applicants pray for amend the application. Leave granted. Amendment be carried out forthwith.

2. This application is filed by the applicants/original accused under the provisions of section 482 of the Code of Criminal Procedure for relief of setting aside and quashing the first information report No. 182/2014 registered with M.I.D.C. police station, Jalgaon, for the offences punishable under section 498A, 494, 323, 504, read with section 34 of the Indian Penal Code and charge-sheet bearing Reg. Criminal Case No. 287/2015 filed before the Chief Judicial Magistrate, Jalgaon.

3. Learned counsel for applicant No. 1 has withdrawn the application for applicant No. 1. So this application is dismissed as withdrawn against applicant No. 1.

4. The brief facts of the case may be stated as follows:

(i) The applicant No. 1 (original accused No.1) is the husband of respondent No. 2. Applicants No. 2 is second wife of applicant no. 1, applicant No. 3 is mother of applicant No. 1(husband), applicants No. 4 to 7 are sister-in-laws of respondent No. 2 and applicants No. 8 to 15 are relatives of the applicant No. 1.

(ii) Respondent No. 2/original complainant lodged complaint on 05.07.2014 by alleging that her marriage performed with applicant No. 1 Raju Tadavi prior to 20 years. Out of the wedlock she has one daughter and two sons. After marriage she went to the house of applicant No. 1 for cohabitation, where applicant No. 1, his mother, sisters, and brothers were residing jointly. For about three years after the marriage the respondent No. 2 was treated well by the applicants but thereafter applicant No. 1 and other family members started illtreating the respondent No. 2. In the year 2006-07 applicant No. 1 demanded Rs. 2 lakh for purchasing house. When the respondent No. 2 expressed her inability to pay the amount, the applicant No. 1 started beating her severely.

(iii) It is further alleged by the respondent No. 2/original complainant that on 01.02.2014 the applicants No. 1, 3 to 15 came to the house of complainant at Badlapur, Mumbai and asked her to sign on a blank paper and asked to bring Rs. 50,000/- from her brother. When complainant refused it they threatened to kill the complainant and

assaulted her by fists. It is further alleged that on 12th and 13th March 2014 again the applicants No. 1, 3 to 15 asked the complainant to sign on blank paper and demanded Rs. 50,000/- and drove her out of the house and sent her to Jalgaon. On 15.03.2014 the applicant No. 1 performed second marriage with applicant No. 2. The applicant No. 13, 14 and 15 and other family members helped applicant No. 1 in his second marriage. With these allegations, offence came to be registered against the applicants for the offences punishable under section 498-A, 494, 323, 504 read with section 34 of the Indian Penal Code.

5. We have heard the arguments of Mr. V.B. Patil, learned counsel for the applicants, Mr. Nerlikar, learned APP for the respondent No.1/State and Mr. Imran Khan, learned counsel for respondent No. 2.

6. On perusal of the contents of the first information report it appears that specific allegations of illtreatment, demand of money and assault are made against applicants No. 1 (husband). The allegations against the applicants No. 2 to 15 are vague and general in nature. No specific instance or particular act alleged or quoted in first information report against the applicants No. 2 and 15. It also appears that applicants are residing at different places. Therefore, prima-facie it appears that the applicants No. 2 to 15 have no concern with the family matters of complainant and applicant No. 1.

7. In view of the above and on perusal of the first information report it also appears that there is no material particular quoting any specific incident of visit or about illtreatment or harassment at the hands of applicants No. 2 to 15 so as to attract the ingredients of section 498-A of the Indian Penal Code or other offences as alleged by the

complainant. The complainant has made vague and general allegations against the applicant No. 2 to 15.

8. On perusal of record it also appears that the applicant No. 1 has given divorce to the respondent No. 2/complainant on 26.02.2014 and the present complaint is filed on 05.07.2014. So also it appears from record that complainant was not residing with the applicant No. 1 from 15.04.2013, and therefore the applicant No. 1 has issued notice to the respondent No. 2/complainant for cohabitation. Therefore, the allegations in the complaint against the applicants appears to be doubtful.

8. In view of the above, to prevent the abuse of process of law, we find that discretion needs to be exercised in respect of applicants No. 2 to 15. Hence, following order:

ORDER

1. Application of applicant No. 2 to 15 is allowed.
 2. Relief is granted in terms of prayer clause 'B' only to the extent of applicants No. 2 to 15.
 3. Rule made absolute in those terms.
9. Criminal application is disposed of.

(K. L. WADANE, J.)

(T.V.NALAWADE,J.)

mkd/-