

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2399 OF 2018

Amol s/o Ravasaheb Ingale,
Age 25 years, Occupation Service,
R/o. N-11, G-7/12, Navjeevan Colony,
Hudco, Aurangabad,
Tq. and Dist. Aurangabad. ...Applicant

Versus

- 1) The State of Maharashtra,
Through the Police Inspector,
Sangamner Police Station,
Sangamner, Tq. Sangamner
Dist. Ahymednagar.
- 2) Vimal w/o Prakash Ingale,
Age 37 years, Occupation Household,
R/o Lauki Tq. Yeola Dist. Nashik. ...Respondents

Mr. K. N. Shermale, Advocate for applicants.
Mr. R. V. Dasalkar, Addl. Public Prosecutor, for respondent
No.1 / State.
Mr. V. M. Vibhute, Advocate for respondent No.2.

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

DATE : 1-10-2018.

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

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

2. Present application has been filed by original accused No. 6

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. 21 of 2018, registered with Sangamner City Police Station, Ahmednagar, and the Charge-sheet vide R. C. C. No. 217 of 2017, filed in the Court of Judicial Magistrate First Class, Sangamner, Dist. Ahmednagar. for the offences punishable under Section 498-A, 494, 323, 504, 506 read with 34 of the Indian Penal Code.

3. Respondent No.2 got married to one Prakash Laxman Ingale on 24-11-1998. Applicant is the nephew of respondent No. 2 (son of brother of husband).

4. Respondent No.2 – informant has contended that, her husband was serving in B. S. F. She has two children from the wedlock. She was treated properly by her parents-in-laws, Sister-in-law, nephew and brothers-in-law. Since her husband used to reside at the place of his duty, other members of the family started giving pinching words saying that her father had not given proper gifts to them at the time of their marriage. All the accused persons used to give false information to her husband, when he used to come. Thereafter, her husband used to harass her under the influence of liquor. Then all the accused asked her to bring amount of Rs. 5 lakhs for construction of house. When she told that her parents are poor, all

the accused harassed her. Her husband had come home on 8-8-2016. Other accused persons created misunderstanding in his mind regarding informant. Thereafter, by keeping son Tushar with him, informant was driven out of the house with her daughter. Her husband has performed second marriage with accused No. 2 on 27-09-2016. When she had gone to her matrimonial home in order to confirm the news, all the accused had assaulted her and driven her out. She had therefore lodged complaint with Mahila Kaksha, Nasik. Then the FIR was lodged.

5. The applicant has contended that, he is serving at Aurangabad since 2016. He is residing separately. The allegations against him are false. He has been added just to harass him. Details of the events have not been given and they have been kept as vague as possible. Therefore, he has prayed for quashment of the proceeding.

6. Heard learned Advocate Mr. K. N. Shermale appearing on behalf of applicant, learned Addl. Public Prosecutor Mr. R. V. Dasalkar and learned Advocate Mr. V. M. Vibhute, appearing on behalf of respondent No.2. All of them have argued in support of their respective contentions.

7. Applicant is the nephew of respondent No. 2. He is aged 25 now. He might have been born somewhere in 1993. Respondent No.

2 got married in 1998. That means at the time of her marriage, applicant was 5 years old. She has stated that she was treated properly for about 4-5 years after marriage. Thereafter, all the accused including applicant started harassing her. That means at that time his might be 10-11 years. Thus, it is unimaginable that a boy of 10-11 years old would harass his aunt (wife of his uncle), by giving wrong information to the husband of informant. It is also unbelievable that a boy of 10-11 years would say that proper gifts were not given to him and he was not honoured in the marriage of his uncle. No specific role has been attributed against him in respect of offence under Section 498-A of the Indian Penal Code. If at all there would have been a demand it would have been mainly by the husband and the father and mother-in-law. The perusal of the entire FIR would show that all of the accused had made the demand in chorus which is not possible when elders are there. Applicant has produced on record the fact that he joined his service at Aurangabad on 10-09-2016. But this date is subsequent to the date on which respondent No. 2 was allegedly driven out of the house i.e. 08-08-2016. However, her story in respect of involvement of applicant is unbelievable. It would be an abuse of process of law to ask the applicant to face the trial. Under such circumstance relief is required to be granted to the applicant by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure.

Hence, following order.

ORDER

- 1) Application is hereby allowed.
- 2) Relief is granted in terms of prayer clause "B" and "C" to the applicant only.
- 3) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.