

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

CRIMINAL APPLICATION NO. 4244 OF 2017

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| <p>1. Devidas Bhagwan Hatkar
Age 33 years, Occu: Business,
R/o House No.421, Samta Nagar,
Bhokar, Tq. Bhokar, Dist.Nanded</p> <p>2. Bhagwan Ramji Hatkar
AGE 62years, Occu: Pensioner</p> <p>3. Vachchalabai Bhagwan Hatkar
Age 55 years, Occu: Household</p> <p>4. Vilas Bhagwan Hatkar
Age 28 years, Occu: Labour
All R/o House No.1029, Ramaji Niwas,
Samta Nagar, Bhokar
Tq. Bhokar, Dist. Nanded</p> <p>5. Ravi Manohar Hatkar
Age 26 years Occu: Service
R/o Shri Nagar Housing Society,
Garkhed, Aurangabad</p> <p>6. Charushila Anil Balkhande
Age 30 years, Occu: Household
R/o Pornima Nagar, Nanded
Tq. and Dist. Nanded</p> <p>7. Jyoti Kishore Khillare
Age 27 years, Occu: Household
New Panvel, Dist. Raigad.</p> | <p>... Applicants
(Orig.Accused)</p> |
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VERSUS

1. The State of Maharashtra
Through Police Inspector
Chudawa, Police Station,
Taluka Purna Dist.Nanded
2. Sau.Sangita Devidas Hatkar ... **Respondents**
Age 28 years,Occu: Household
R/o Kawalgaon Tq. Purna
Dist. Parbhani.

Mr. Ajeet B.Kale, Advocate for the applicants
Mrs. D. S.Jape APP for the respondent State.
Mr. Shrikant T. Veer Advocate for respondent No.2

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

DATE: : 27th June, 2018

JUDGMENT (Per K. L. Wadane,J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, the application is taken up for final hearing.
2. The application is filed under section 482 of the Code of Criminal Procedure for relief of quashing of first information report bearing Crime No. 54/2017 registered with Chudawa Police Station, Tq. Purna Dist. Parbhani for the offence punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code. By way of amendment, the applicants have also challenged Charge-Sheet No.72/2017 filed before the learned J.M.F.C. Purna and prayed for

quashing the same.

3. Respondent No.2/original complainant lodged first information report against the present applicants on 29.06.2017 alleging that she was married to applicant No.1 Devidas Hatkar on 19.04.2009 and started living with her husband at her matrimonial home. She was given Rs. two lakhs in marriage as dowry. It is alleged that she was treated well by applicants initially for some days. Thereafter, the applicants started torturing, and ill-treating the complainant on trivial issues and on the ground of her physical structure/appearance and also raised suspicion on her character. They asked the complainant to bring Rs. one lakh from her parents for business purpose and in pursuance to the demand, the applicants started ill-treating the complainant, they used to beat her and harass her physically and mentally and some times she was kept without food. Accused also gave threat to kill her and was driven her out of the house. With these allegations, offence as referred above came to be registered against the applicants.

4. Heard Ajeet Kale, learned for the applicants, Mrs. D. S. Jape, learned APP for the respondent State and Mr. Shrikant Veer, learned counsel for respondent No.2.

5. On perusal of the contents of the first information report it appears that specific allegation of demand of money, ill-treatment and harassment are made against applicant Nos.1 to 4 i.e. husband, father-in-law, mother in-law and brother in-law Vilas Hatkar who are residing at Samtanga, Bhokar, i.e. at the place of matrimonial house of the complainant. There are specific allegations against them that they have harassed the complainant and kept her without food, taken her ornaments and were beating her in pursuance of demand of money. Instances of harassment are given in the F.I.R. In view of the material collected during investigation, we are not inclined to exercise discretion in respect of applicant Nos. 1 to 4.

6. So far as applicant Nos. 5 to 7 are concerned, it appears from the record that applicant No.5 Ravi Hatkar is in service and residing at Aurangabad, at the place of his service. Applicant No. 6 Charushila and applicant No.7 Jyoti are married sisters-in-laws of the complainant. Allegation against them are that they were harassing the complainant mentally and physically in pursuance of the demand of money. Applicant No.5 is brother in-law and residing separately at Aurangabad. Applicant Nos. 6 and 7, are married sister-in-laws is

residing at Nanded and New Panwel respectively with their respective husbands. There was no occasion for these applicants to harass or torture the complainant on the grounds stated in the FIR. They have no direct concern with the family affairs of the applicants 1 to 4 and the complainant.

7. On perusal of the first information report it appears that there is no material particular quoting any specific incident of visit or about ill-treatment or harassment against applicant Nos. 5 to 7 so as to attract ingredients of section 498-A of the Indian Penal Code. All family members of the accused-husband appears to have been roped in the offence. Allegations against applicant Nos. 5 to 7 in the first information report are vague and general in nature. No specific act or overt-act is attributed to them. There is no specific instance or material particular quoted in the FIR which would strengthen the allegation of the complainant that there was harassment or ill-treatment at the hands of applicant Nos. 5 to 7. On its face, the complaint does not constitute any offence against these applicants. Nothing can be achieved if criminal proceedings are allowed to be continued against these applicants. Therefore, we found considerable force in the argument of Mr. Kale,

learned counsel for the applicant for quashing the F.I.R. to the extent of the applicant Nos. 5 to 7.

8. In view of the above, in order to prevent the abuse of process of law, we find that discretion needs to be exercised in respect of Applicant Nos. 5 to 7. Hence following order:

O R D E R

- i. Application of applicant No. 5 Ravi Manohar Hatkar, applicant No.6 Charushila Anil Balkhande and applicant No.7 Jyoti Kishor Khillare is hereby allowed.
- ii. First information report bearing Crime No. 54/2017 registered with Chudawa Police Station, Tq. Purna, Dist. Parbhani and Charge-Sheet No. 72/2017 filed before the learned J.M.F.C. Purna for the offence punishable under Section 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code are hereby quashed and set aside to the extent of applicant Nos. 5 to 7.
- iii. Application of Applicant Nos. 1 to 4 is rejected.
- iv. Rule is made partly absolute in the above terms.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC