

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

CRIMINAL APPLICATION NO. 3823 OF 2010

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| 1. Radhabai w/o. Babasaheb Argade
Age : 60 years, Occu: Housewife,
R/o. Near Pardeshi Wadi, Waluj,
Tq. Gangapur, Aurangabad. | | |
| 2. Babasaheb s/o. Piraji Argade
Age : 65 years, Occu : Agril.
R/o. as above. | ... | Applicants
(Ori. Accused No.1
& 2) |

VERSUS

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| 1. The State of Maharashtra
through Investigation Officer,
Osmanpura Police Station,
Dist. Aurangabad.
[Copy to be served on P.P. Of High Court
of Judicature of Bombay Bench at
Aurangabad] | | |
| 2. Surekha w/o. Parmeshwar Argade
Age: 21 years, Occu: Household,
R/o. C/o. Turkhabad Kharadi,
Tq. Gangapur, Dist. Aurangabad | ... | Respondents
(R-2 is Orig.
Complainant) |

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Mr. G. J. More and R. V. Gore for the Applicants.

Mr. R. V. Dasalkar, APP for Respondent No. 2 - State.

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CORAM	: T. V. NALAWADE AND K. L. WADANE, JJ.
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DATE:	: 26th July, 2018
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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 present petition is filed by the applicants challenging the first information report bearing crime No.I-247/2010 dated 08.08.2010 registered against the applicants with Osmanpura Police Station, Aurangabad for the offence punishable under section 306, read with Section 34 of the Indian Penal Code.
3. The respondent No. 2 herein, lodged a complaint to the police Station alleging that she married with one Parmeshwar who was the son of the applicant Nos. 1 and 2 and it is alleged by the respondent No. 2, after the marriage she was treated nicely for some time. Subsequently, they started ill-treating her mentally and physically. In spite of the fact, the respondent No. 2 co-habited with Parmeshwar for about 6 months. Subsequently, the respondent No. 2 went to her parents house and since then she is residing with her parents.
4. We have heard the arguments of Mr. G. J. More and R. V. Gore learned counsel for the applicants and Mr. R. V. Dasalkar, learned APP for the Respondent – State. We have also perused the contents of the first information report and the other documents placed on record from the same, it appears that the respondent No. 2 was resided with her husband hardly for

about 6 months after the marriage and thereafter, she started to reside with her parents. Further, it appears from the record that the respondent No. 2 filed maintenance proceeding bearing M.A. No.99/2009 under Section 125. She also gave a complaint before the Mahila Takrar Nivaran Kendra. On the other hand, her husband Parmeshwar (since deceased) filed a H. M. Petition No.46/2009 under the provision of 13 (1) (ib) of the Hindu Marriage Act that petition was rejected by the Joint Civil Judge, Senior Division, Aurangabad on the ground that the petition was presented before the expiry of the statutory period of two years. Therefore, the petition was dismissed on that ground without considering the merits of the case and pleadings of the rival parties.

5. It is further alleged that the husband of respondent No. 2 committed suicide due to the ill-treatment given by the applicant Nos. 1 and 2 and they have abetted the commission of suicide by Parmeshwar. From the record, it appears that after the marriage of the respondent No. 2 with Parmeshwar on 14.05.2007, hardly she resided with the family of the applicants for about 6 months and thereafter, she started residing with her parents. Therefore, there was no occasion for the respondent No. 2 to know the day today affairs in the family of the applicants and their son Parmeshwar.

6. The allegations against the present applicants are apparently made on the basis of guess or imagination. However, there is absolutely no evidence to show that the applicant Nos. 1 and 2 have given ill-treatment to

the Parmeshwar due to which he committed suicide. In view of the above and in absence of evidence, it is not desirable to continue the criminal prosecution against the applicants. Hence, the application is allowed. Relief is granted in terms of prayer clause 'B'.

7. Rule is made absolute in those terms. Petition is disposed of.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

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