

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

CRIMINAL APPLICATION NO. 5437 OF 2014

1. Sameer s/o Vajeer Pathan
Age : 27 years, Occu: Private service,
2. Amruta (Muskan) w/o Sameer Pathan
Age : 23 years, Occu: Housewife,

Both R/o Shirur (Kasar),
Tq. Shirur (Kasar), Dist. Beed.
3. Amir s/o Vajeer Pathan
Age: 22 years, Occu:service,
4. Bannu w/o Vajeer Pathan
Age: 55 years, Occu: housewife,
5. Rasedabi w/o Usman Pathan
Age :75 years, Occu: nil,
All R/o Gomalwada,
Tq. Shirur (Kasar), Dist. Beed.
6. Samim w/o Vajeer Pathan
Age : 50 years, Occu: Housewife,
R/o Pimpalner, Tq. Shirur (Kasar),
Dist. Beed.
7. Shahabuddin s/o Vajeer Pathan
Age : 25 years, Occu : labour work,
R/o Gomalwada, Tq. Shirur, Dist. Beed. ... **Applicants**

VERSUS

1. The State of Maharashtra
(Copy to be served on public Prosecutor,
High Court of Mumbai Bench at
Aurangabad)
2. Shahinaaz w/o Shahabuddin Pathan
Age : 27 years, Occu: housewife,
C/o Popat s/o Dauad Shaikh,
R/o Kuslamb Tq. Patoda, Dist. Beed. ... **Respondents**

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Mr. Dhakne Vijay A for the Applicants.

Mrs. D. S. Jape, APP for Respondent No. 1 - State.

Mr. M. S. Taur, appointed as amicus curiae.

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

DATE: : 27th July, 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 applicants have challenged the first information report bearing Crime No.119/2014 dated 20.08.2014 registered at Patoda Police Station, District Beed against the applicants for the offences punishable under Section 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code. By the order of this Court dated 07.10.2014 the application of the applicant No. 7 is dismissed as not pressed.

3. The respondent No. 2 herein lodged a complaint against the applicants contending that she married with the applicant No. 7 prior to 3 years. After the marriage the respondent No. 2 was treated normally. During that period she begotten one son. Thereafter, after about one year, the

applicant No.7 went to Pune as he was driver on a private vehicle. Therefore, the applicant No. 7 neglected the respondent No. 2, thereupon, the applicant No. 7 was ill-treating the respondent No. 2 on the instigation of the applicant Nos. 1 to 6 on account of demand of Rs. 7 lakhs. Therefore, there was mental and physical ill-treatment. The respondent No. 2 informed this fact to her parents. However, due to the financial condition the parents were unable to fulfill the demand. One day thereafter, the applicant Nos. 1 to 7 drove out the respondent No. 2 from the house, since then she is residing with her parents. Thereafter, the applicant Nos. 1 to 7 came at village Kuslumb, again demanded an amount of Rs. 7 lakhs. The applicant No. 7 assaulted her by kick and fist blows. The applicant Nos. 1 to 6 assaulted her by chappal and threatened her to kill. With these allegations the offence came to be registered.

4. We have heard the arguments of the learned counsel for the parties, and also gone through the relevant documents produced on record in this proceeding. On perusal of the same, it appears that the applicant No. 3 Amir at the relevant time was serving in Pharmacy College at Patoda and thereafter, he was selected in Armed Force and serving as a soldier since 20.02.2013 onwards and this fact is clear from the copy of the two identity cards, one issued by the college and another issued by the armed forces coupled with the copy of the appointment order. The applicant No. 5 appears

to be grandmother-in-law of the respondent No.2. She is aged about 75 years. Therefore, looking to the relation of the applicant No.1 with the respondent No. 2, the allegations against him appears to be false or improbable. The applicant No. 6 Samim i.e. the mother-in-law i.e. the second wife of Vajeer Pathan appears to be residing with her brother at Pimpalner, Tq. Shirur and same is clear from the copy of the Ration Card produced on record. So the applicant No. 5 is a distant relative of Respondent No. 2 and applicant Nos. 3 and 6 are residing separately from the applicant Nos. 1, 2, 4 and 7.

5. Next aspect is to be considered about the nature of the allegations as referred above, the allegations against the applicant Nos. 1 to 6 are absolutely vague. Merely it has been stated that the applicant No. 7, the husband of Respondent No. 2 was beating her demanding an amount of Rs.7 lakhs on the instigation of the applicant Nos. 1 to 6. In spite of the above facts, it appears that the applicant Nos. 1, 2 and 4 were residing with the applicant No. 7 and respondent No. 2 at the relevant time of the alleged incident of ill-treatment. In such circumstances, we are of the opinion the applicant Nos. 3 and 6 were residing separately and applicant No. 5 is old aged lady and a distant relative of respondent No. 2 and the fact that the allegation against them are absolutely vague as to date, month of the alleged ill-treatment. In such circumstances, the first information report can be quashed to the extent of the applicant Nos.3, 5 and 6.

6. In view of the above, the application of the applicant Nos. 3, 5 and 6 only is allowed. Relief is granted in terms of prayer clause (C) . The application of the remaining applicant i.e. 1, 2 and 4 is dismissed. Rule made absolute in those terms. Application is disposed of.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

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