

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

CRIMINAL APPLICATION NO. 4323 OF 2009

1. Ashok Kisan Mali
Age : 50 years, Occu: Service,
as Office Superintendent in the office of
Deputy S. P., Navasari
Dist. Navsari (Gujrat).
R/o 7/77, Gyayatri Apartment,
Sola Road, Opposite Ghatlodiya Police
Station, Ahmedabad.
 2. Bharat S/o Kisan Mali
Age : 46 years, Occu: Govt. Service,
R/o 8/87, Gyayatri Apartment,
Sola Road, Opposite Ghatlodiya Police
Station, Ahmedabad.
 3. Sau. Bharti Bharat Mali
Age: 35 years, Occu: Household,
R/o 8 /87, Gayatri Apartment,
Sola Road, Opposite Ghatlodiya Police
Station, Ahmedabad.
 4. Heena Ashok Mali
Age: 27 years, Occu: Student,
R/o 7/77, Gyayatri Apartment,
Sola Road, Opposite Ghatlodiya Police
Station, Ahmedabad (Gujarat).
- ... Applicants
(Orig. accused)**

VERSUS

1. The State of Maharashtra
(Copy to be served on public Prosecutor,
High Court of Judicature of Bombay,
Bench at Aurangabad)

2. The Police Sub Inspector,
Azad Nagar Police Station,
Dhule, Dist. Dhule.

3. Surekha w/o Ashok Mali
Age : 34, Occ: Housewife,
R/o Om Colony, Old Dhule, Dist. Dhule ... **Respondents**

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Mr. V. R. Dhorde h/f Mr. S. B. Jadhav for the applicants.

Mr. S. J. Salgare, APP for Respondent Nos. 1 and 2.

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

DATE: : 31st July, 2018

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

1. The present application is filed by the applicants to challenge the first information report bearing C.R. No. 260/2009 registered with Azadnagar Police Station, Dhule, against the applicants for the offence punishable under Section 498-A, 406, 420, 323, 504, 506 read with Section 34 of the Indian Penal Code and under Section 4 and 5 of the Dowry Prohibition Act.

2. The respondent No.3 herein, lodged a complaint to the Azadnagar Police Station, Dhule, on 08.11.2009, alleging that she married with the applicant No. 1 on 24.05.1994. The applicant No. 1 concealed his first marriage. After the marriage respondent No. 3 started to reside with the applicants at Ahmedabad - Gujarat. For about two to three months, she was

treated nicely. However, subsequently the applicant No. 1 - husband Ashok started ill-treatment on account of illegal demand of Rs.1 lakh. He used to beat her and the applicant No.2 - Bharat her bother-in-law, his wife applicant No. 3 Bharti and daughter of the applicant No. 1 from the first wife namely Heena i.e. applicant No. 4 were instigated the applicant No. 1. They were also beating her and abused her. After about one year from the marriage all the applicants have drove her out from their house. One year prior to the first information report, the applicant No. 1 had taken the respondent No. 3 to the Ahmedabad and treated nicely for about 6 months, again thereafter, he started ill-treatment on account of demand of Rs.1 lakh and thereafter, he drove away the respondent No. 3 from his house.

3. We have heard the arguments of Mr. V. R. Dhorde learned counsel appearing for the applicants and Mr. S. J. Salgare, learned APP for the respondent Nos. 1 and 2.

4. During the course of arguments Mr. Dhorde learned counsel for the applicants seeks liberty to withdraw the application to the extent of the applicant No. 1. Therefore, the application of the applicant No. 1 is disposed of as withdrawn.

5. Looking to the allegations in the first information report, it appears that the allegations against the applicant Nos. 2 to 4 are absolutely vague. It has been alleged by the respondent No. 3 that the applicant Nos. 2

to 4 instigated her husband and they all abused and beat her. There are specific allegations against the husband of respondent No. 3 about illegal demand of money, physical and mental harassment. However, the allegations against the rest of the applicants are regarding instigation. Nowhere, it is mentioned in the first information report, how and when the applicant Nos. 2 to 4 have instigated and what was its nature. So it appears that the allegations against them are absolutely vague on the basis of which the applicant Nos. 2 to 4 cannot be compelled to face the prosecution.

6. In view of the above, the application for the applicant No. 1 is disposed of as withdrawn. The application for applicant No. 2 – Bharat Kisan Mali, applicant No. 3 – Bharti Bharat Mali and applicant No. 4 – Heena Ashok Mali is allowed. The applicant Nos. 2 to 4 are granted permission to amend the prayer clause regarding the quashment of the charge sheet/criminal case. Relief is granted to them in terms of prayer clause 'B' and also relief of quashing of the charge sheet/criminal case filed against them. Rule is made absolute in those terms. Application is disposed of .

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)