

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2548 OF 2018

- 1) Swarupanand Ramchandra Thombare,
Age : years, Occu. : Agri.
- 2) Mangal Ramchandra Thombare,
Age : 58 years, Occu. : H.H
- 3) Ramchandra Changdeo Thombre,
Age : 62 years, Occu. : Pensioner,
- 4) Nitin @ Sachidanand Ramchandra
Thombare,
Age : years, Occu. : Service,
- 5) Rajeshree Nitin @ Sachidanand
Thombare,
Age : years, Occu. : H. H.

All R/o Kakaramba Tq. Tuljapur,
Dist. Osmanabad.
- 6) Baliram Deoba Khandekar,
Age : 49 years, Occu. : Service,
- 7) Sarika Baliram Kahandekar,
Age : 39 years, Occu. : H. H. Both
R/o Yevati Tq. & Dist. Osmanabad. ...Applicants

Versus

- 1) The State of Maharashtra
Through Police Station Tuljapur,
Tq. Tuljapur, Dist. Osmanabad.
- 2) Yogita Swarupanand Thombare,
Age : years, Occu. : H. H.
R/o C/o babasaheb Kolekar,
Morda, Tq. Tuljapur, Dist.

Osmanabad.

...Respondents

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Mr. V. V. Ingale, Advocate for Applicants.

Ms. V. S. Chaudhari, A. P. P., for Respondent No. 1
- State.

Mr. S. S. Shaikh, Advocate for Respondent No.2.

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

DATE : 20-12-2018.

JUDGMENT : (Per Smt. Vibha Kankanwadi, J.)

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

02. Present application has been filed by the applicants 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. 218 of 2018, registered with Tuljapur Police Station, Dist. Osmanabad, for the offences punishable under Section 498-A, 323, 504 read with 34 of the Indian Penal Code.

03. Respondent No. 2 got married to applicant No. 1 on 28.05.2014 in the engagement ceremony itself at Village Kakramba, Tq. Tuljapur, Dist. Osmanabad. Applicant No.1 is the husband of respondent No. 2, applicants Nos. 2 and

3 are the parents of applicant No. 1, and applicants No. 4 is brother of applicant No. 1 and applicant No. 5 is wife of applicant No. 4. Applicant No. 6 is the husband of applicant No. 7. Applicant No. 7 is the sister of applicant No. 1.

04. Respondent No. 2 – informant has contended that, after the marriage she went to co-habit with her husband at her matrimonial home. The applicants gave her good treatment for about 4 to 5 months. Thereafter, all the applicants started giving ill-treatment to her. During that period she became pregnant and because of her father's poor condition she had sustained the ill-treatment. But, she could not bear the ill-treatment in 2015 and told the abovesaid fact to her father and mother. Thereafter, her father and mother came to her matrimonial home and requested the applicants not to ill-treat their daughter. Thereafter, applicants gave her good treatment for about one month. Thereafter, she went to her parental house for delivery. She gave a birth to a girl child on 30.9.2015. Afterward the parents left her to matrimonial house. At that time, the father-in-law and mother-in-law insulted her parents and asked about the remaining amount of dowry. Her parents gave assurance to pay the remaining amount within one and half to two months. During that

period her husband had beaten her by kick blows and father-in-law, mother-in-law, brother-in-law, sister-in-law had asked her to bring the remaining amount of dowry Rs. 3,00,000/- and also bring Rs. 5,00,000/- for purchase of car. Then she was driven out of house. She went to her parents' house and told the facts to her parents. Her parents and some respected persons from her village went to her matrimonial home and inquired the in laws about the ill-treatment. Her father-in-law and mother-in-law used abusive language to them and drove them out from the house. She thought that her husband and in-laws would come and take her alongwith daughter to their home, but, they never turned up. Then she alongwith her daughter and her parents went to her matrimonial home on 18.7.2018, but, at that time they told that they have no relation with her, abused her as well as to her parents also. Her husband and brother-in-law came there with sticks and also abused her parents. They demanded the amount of Rs. 3,00,000/- from the dowry and Rs. 5,00,000/- for purchase of the car. They told that if her parents do not give the said amount, then they will not allow her to co-habit. They had driven her parents out of their house. Therefore, she has lodged the report.

05. The applicants have contended that, they are

giving good treatment to respondent No. 2. Applicant Nos. 2 and 3 are old aged persons, suffering from health problem and taking medical treatment from the Doctors. The applicant No. 3 Ramchandra is retired teacher and having good reputation in the society, but, respondent No. 2 falsely involved them to harass them. Applicant No. 4 Nitin is serving as a Police Constable at Osmanabad and resides at government quarter at Osmanabad since 2015 i.e. prior to marriage of respondent No. 2. Applicant No. 7 Baliram Devidas Khandekar is Teacher and working at village Dhorala, Tq. Kallam, Dist. Osmanabad since 1994 till today. Applicants No. 6 and 7 are resident of Dhorala, Tq. Kallam, Dist. Osmanabad. Applicants No. 6 and 7 are married prior to the marriage of applicant No. 1 and respondent No. 2. They have been falsely implicated. Therefore, they have prayed for quashment of the proceeding.

06. Heard learned Advocate Mr. V. V. Ingale for Applicants, Ms. V. S. Chaudhari, learned A. P. P., for Respondent No. 1 – State and Mr. S. S. Shaikh, Advocate for respondent No. 2. When it was pointed out to the learned advocate for the applicants that this Court is not inclined to grant any relief to applicant Nos. 1 to 3, he prayed for withdrawal of the application as against them.

07. The application was considered only for the

allegations against the applicant Nos. 4 to 7. Perusal of FIR would show that no specific role has been attributed against them in respect of offence under Section 498-A of the Indian Penal Code. The perusal of the entire FIR would show that all of them had made the demand in chorus which is not possible when elders are there. Further, it can be seen that nothing was demanded by applicants No. 4 to 7 for themselves as per the allegations in the FIR itself. Applicants No. 4 & 5 are resident of Osmanabad and No. 5 to 7 are resident of Yewati, Tq & Dist. Osmanabad. Therefore, it can not be inferred that the applicant Nos. 4 to 7 were harassing her. So, it appears that as a routine, all the relatives of the husband have been roped. It would be a futile exercise to ask them to face the trial. Under such circumstance, relief is required to be granted to the applicants No. 4 to 7 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure.

08. Hence, following order ;

ORDER

(i) Application of applicant No. 1 to 3 is disposed of as withdrawn.

(ii) Application of applicants No. 4 to 7 is allowed.

(iii)Relief is granted in terms of prayer
clause "B" to the applicants No. 4 to 7
only.

(iv)Rule made absolute in those terms.

[SMT. VIBHA KANKANWADI]

JUDGE

[T. V. NALAWADE]

JUDGE

Dahibhate/-