

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2624 OF 2018

- 1) Naresh Barsu Kochure,
Age 35 years, occupation Labour,
R/o House no. 503, Shivaji Nagar,
Hudco, Jalgaon.
 - 2) Kamlabai Barsu Kochure,
Age 55 years, Occupation Household,
R/o House No. 503, Shivaji Nagar,
Hudco, Jalgaon.
 - 3) Barsu Tukaram Kochure,
Age 65 years, Occupation Nil,
R/o House No. 503, Shivaji Nagar,
Hudco, Jalgaon.
 - 4) Mukesh Barsu Kochure,
Age 28 years, Occupation Labour,
R/o 481/503, Shivaji Nagar,
Hudco, Jalgaon.
 - 5) Nitin @ Deepak Barsu Kochure,
Age 42 years, Occupation Pvt. Service,
R/o Manorama Building, 4th Floor,
Jogeshwari (E), Mumbai.
 - 6) Vidhya Nitin Kochure,
Age 34 years, Occupation Housewife,
R/o Manorama Building, 4th Floor,
Jogeshwari (E), Mumbai.
- ...Applicants

Versus

- 1) The State of Maharashtra
Through Dhule Taluka Police Station,
Tq. Dist. Dhule.
- 2) Ambrapali Naresh Kochure,

Age 25 years, Occupation Housewife,
R/o Chittod Bit, Tq. Dist. Dhule.

...Respondents

Mr. M. V. Thorat, Advocate for applicants.

Mr. S. J. Salgare, Addl. Public Prosecutor, for respondent
No.1 / State.

Mr. Aftab Patel, Advocate for respondent No.2 (Appointed).

**CORAM : T. V. NALAWADE &
SMT.VIBHA KANKANWADI. JJ.
DATE : 11-12-2018.**

ORAL JUDGMENT : (Per SMT. VIBHA KANKANWADI, J.)

1. At the outset, learned Advocate for the applicants seeks permission to withdraw the application to the extent of applicants No.1, 2 and 3, after it was pointed out that this Court is not inclined to grant any relief to them.

2. Permission granted. The application stands disposed of as withdrawn to the extent of applicants No.1, 2 and 3.

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

4. Present application has been filed by original accused persons 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. 304 of 2017, registered with Dhule Taluka Police Station, Dhule, for the offences punishable under Section 498-A, 323, 504, 506, 406 read with 34 of the Indian Penal Code.

5. Respondent No.2 got married to applicant No.1 on 11-11-2011. Applicant No.1 is the husband of respondent No.2, applicants No.2 and 3 are the parents, applicants No. 4 and 5 are the brothers of applicant No.1. Applicant No. 6 is the wife of applicant No.5.

6. Respondent No.2 – informant has contended that, her father has spent around Rs.2 lakhs on her marriage. Gold ornaments were given to her and her husband. Applicant No. 1 got addicted to liquor after about 4 months of marriage. He was not doing anything to earn. He used to assault and abuse her, under the influence of liquor. He used to say that her father has given less dowry in the marriage and had not honoured his relatives. All the other members of the family also started harassing her on the same count. She went to her parents' house for the first delivery and gave birth to daughter on 18-11-2012. When this fact was informed to the accused, they did not come to meet her and daughter for about 6 months. It was conveyed to her that they are annoyed due to the birth of a female child. Her husband and applicant No. 2 had come to fetch her after 6 months. Informant's parents had tried to persuade by saying that there is no difference in male child or female child. They were not in a mood to listen. They had abused her parents. Informant had intention to cohabit, therefore, went along with them. She was then harassed mentally and physically. Informant gave birth to another

daughter on 12-10-2014. Even at that time also none came from her husband's side to see her. She went to matrimonial home after 6 months. Applicant No.1 used to say under the influence of liquor that he wanted a male child, but got only female child. He has incurred loan and informant should bring Rs.5 lakhs for repayment of said loan amount from her parents. When she expressed inability, the accused persons abused her and drove her out of the house. It was told that she should not come unless she brings the said amount. Accused persons had taken away her gold ornaments at that time. Therefore, she has lodged the report.

7. The applicants have contended that, FIR contains allegations in general and no specific role is attributed to them. FIR does not disclose any offence. No details of any event have been given. Applicants No.5 and 6 are residing at Mumbai. Applicant No.4 is a senior citizen and applicant No.3 is also residing independently. The FIR has been lodged with ill motive. Therefore, they have prayed for quashment of the proceeding.

8. Heard learned Advocate Mr. M. V. Thorat appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. S. J. Salgare and learned Advocate Mr. Aftab Patel, appointed for respondent No.2.

9. The application was considered only for the allegations against the applicants No.4, 5 and 6. Applicants No.5 and 6 are ordinarily

residing at Mumbai. They have filed copy of leave and licence agreement. Applicant No. 6 is also the daughter-in-law of the house. Why she would harass respondent No.2 is a question. Applicant No.4 is residing with his parents, but he is the younger brother of applicant No.1. Perusal of FIR would show that no specific role has been attributed against applicants No.4, 5 and 6 in respect of offence under Section 498-A of the Indian Penal Code. If at all there would have been a demand it would have been mainly by the husband and the father and mother-in-law. 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. Nothing was demanded by applicants No.4, 5 and 6 for themselves as per the allegations in the FIR itself. Another fact is also required to be seen that if at all anyone was aggrieved by female child born to respondent No.2, it would be applicants No.1 to 3. There is no substance in the allegations that even applicants No.4 to 6 were making grievance about birth of daughters to respondent No.2. So, it appears that, as a routine all the relatives of the husband have been roped. It would be a futile exercise to ask applicants No.4 to 6 to face the trial, with such kind of allegations. Under such circumstance relief is required to be granted to the applicants No. 4, 5 and 6 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) Application of applicants No. 1, 2 and 3 is disposed of as withdrawn.
- 2) Application of applicants No.4, 5 and 6 is allowed.
- 3) Relief is granted in terms of prayer clause "A" to the applicants No.4, 5 and 6 only.
- 4) The fees of the appointed counsel is quantified as Rs.4,000/- (four thousand) and it is to be paid through the High Court Legal Services Authority, Sub-Committee, Aurangabad.
- 5) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.