

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2645 OF 2018

- 1) Rajesh Subhash Neharkar,
Age : 33 years, Occu. : Service,
R/o Tirupati Nagar, Barshi Road,
Beed,
Tq. & Dist. Beed.
- 2) Kamalbai Subhash Neharkar,
Age : 55 years, Occu. : Household,
R/o Tirupati Nagar, Barshi Road,
Beed,
Tq. & Dist. Beed.
- 3) Tejas Subhash Neharkar,
Age : 35 years, Occu. : Legal
practice,
R/o Tirupati Nagar, Barshi Road,
Beed,
Tq. & Dist. Beed.
- 4) Anita Tejas Neharkar,
Age : 34 years, Occu. : Service,
R/o Tirupati Nagar, Barshi Road,
Beed,
Tq. & Dist. Beed.
- 5) Ganesh Subhash Neharkar,
Age : 31 years, Occu. : Service,
Mankapur City Police Station,
Nagpur, Tq. & Dist. Nagpur. ...Applicants.

Versus

- 1) The State of Maharashtra
Through Shivaji Nagar Police
Station,
Beed, Dist. Beed.

2) Janabai @ Janki Rajesh Neharkar,
Age : 35 years, Occu. : Service,
R/o Telangshi, Tq. Jamkhed, Dist.
Ahmednagar.

...Respondents

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Mr. S. R. Shirsat, Advocate for Applicants.

Mr. R. V. Dasalkar, Addl. Public Prosecutor, for
respondent No. 1 / State.

Mr. G. M. Shingare, Advocate for Respondent No.2.

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

DATE : 24-11-2018.

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

01. 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. 0498 of 2018, registered with Shivajinagar Police Station, Beed, for the offences punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

02. Respondent No. 2 got married to applicant No.1 on 11-08-2014 at Mukta Lawns, Beed. Applicant No.1 is the husband of respondent No.2, applicants No.2 is the mother, applicant No. 3 and 5 are the brothers of applicant No.1.

Applicant No. 4 is the wife of applicant No.3.

03. Respondent No. 2 – informant has contended that, after marriage she went for cohabitation. She was treated properly by applicants for about 8-9 months. Thereafter all the applicants started demanding amount of Rs.5 lakhs for purchasing Scorpio vehicle. They were also saying that they are not approving her. She was harassed on trifle matters and on the count of entire salary amount. Her husband was instigated by others and he started saying that she is not good looking, she is more in age, she is not giving her entire salary. They used to abuse her and confine her on holidays, keeping her starved. Her husband used to give entire amount of salary to his brother and sister-in-law. Informant used to go to her place of service at Telangshi, Tal. Jamkhed. Applicants have purchased house from her salary and gold ornaments given to her by her father at the time of marriage. There was marriage of her brother-in-law and therefore, her husband demanded amount of Rs. 50,000/- from her father for purchasing cloths. Her father could not fulfill the demand. She was assaulted in front of her parents. There was no change in the behaviour of applicants, in spite of request by her father. She was driven out of the house. She was threatened with dire consequences, in case returns

to house. Therefore, she started residing with her brother at Beed. She was again assaulted by applicants on 26-03-2018, when she refused to give amount for purchasing vehicle. Therefore, she has lodged the report.

04. The applicants have contended that, they are innocent. Informant had resided only for 25 days in their house. She was insisting applicant No. 1 to come and reside at Beed. She was not willing to stay with applicants. She had shifted to her parents house without intimating them. When she was asked about her act, she threatened that she would send them to jail, if they do not listen to her say. She gave threat to commit suicide, when she had come to attend marriage ceremony of applicant No. 5 on 23-11-2017. She was sent back by persuasion. She used to insult her husband. Applicant No. 1 had tried to bring her back. When his efforts could not yield any result, he sent legal notice to her on 21-02-2018. She gave reply. He has then filed proceedings for divorce before Civil Judge Senior Division, Beed. When she came to know about the same, she has lodged the report. FIR is based on concocted story. She has also lodged application under Domestic Violence Act. FIR has been filed to harass them. Therefore, they have prayed for quashment of the proceeding.

05. Heard learned Advocate Mr. S. R. Shirsat appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. R. V. Dasalkar and learned Advocate Mr. G. M. Shingare, appearing on behalf of 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 applicants Nos. 1 to 3, he prayed for withdrawal of the application as against them.

06. The application was considered only for the allegations against the applicant No. 4 and 5. No specific role has been attributed against them in respect of offence under Section 498-A of the Indian Penal Code. Applicant No. 1 to 3 are residing under one roof. No doubt applicant No. 4 is also residing with them, but there are no allegations against her. She is also serving in Police Department in Beed. Applicant No. 5 is serving in Police Department at Nagpur. If at all there would have been a demand it would have been mainly by the husband and the mother-in-law. There are allegations against applicant No. 3 also. It is also to be noted that informant herself was also serving at Telangshi and is stated that they she used to reside at that place. Under such circumstance, at least as against applicant No. 4 and 5, there is no substance in

the allegations. It appears that, as a routine all the relatives of the husband have been roped. It would be futile exercise to ask them to face the trial. Under such circumstance relief is required to be granted to the applicants No. 4 and 5 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- (i) Application of applicant Nos. 4 and 5 is hereby allowed.
- (ii) Relief is granted in terms of prayer clause "B" to the applicant Nos. 4 and 5 only.
- (iii) Application to the extent of applicant Nos. 1 to 3 is hereby disposed of as withdrawn.
- (iv) Rule made absolute in above terms.

[SMT. VIBHA KANKANWADI]

JUDGE

[T. V. NALAWADE]

JUDGE

Dahibhate/-