

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2685 OF 2018

- 1] Sudarshan Bhikan Patil,
Age : 30 years, Occu. : Worker,
- 2] Bhikan Sakharam Patil,
Age : 52 years, Occu. : Govt.
Service,
- 3] Asha Bhikan Patil,
Age : 47 years, Occu. : Household,
- 4] Ratnamala Ramdas Patil,
Age : 32 years, Occu. : Household,
- 5] Swapnali Bhikan Patil,
Age : 25 years, Occu. : Education,

All R/o Survey No. 1/2, Plot No. 15,
Near Shani Mandir, Old Bhawsingpura,
Aurangabad.

...Applicants

Versus

- 1] The State of Maharashtra,
Through Investigation Officer,
Jalgaon Taluka Police Station,
Dist. Jalgaon.
- 2] Kirti Sudarshan Patil,
Age : 25 years, Occu. : Household,
R/o at present c/o Vishwas Kshinat
Patil,
Village Diksai, Tq. & Dist. Jalgaon. ...Respondents

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Mr. K. N. Shaikh, Advocate for Applicants.

Mr. M. M. Nerlikar, A. P. P. for Respondent No. 1-
State.

Mr. S. A. Nirban, Advocate for Respondent No. 2.

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**CORAM : T. V. NALAWADE &
SMT. VIBHA KANKANWADI, JJ.**
DATE : 27-11-2018.

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. 78 of 2018, registered with Jalgaon Taluka Police Station, Dist. Jalgaon, for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

02. Respondent No. 2 got married to applicant No. 1 on 06.03.2018 at Diksai, Tal. Jalgaon. Applicant No. 1 is the husband of respondent No. 2, applicants Nos. 2 and 3 are the parents, applicants Nos. 4 and 5 are the sisters of applicant No. 1.

03. Respondent No. 2 – informant has contended that, after residing at her parents' place for 15 days after marriage, she went to her matrimonial home. Her husband was residing with applicant Nos. 2, 3 and 5. They had treated her properly for about 15-20 days. Thereafter,

applicant No. 3 started saying that applicant No. 1 is serving with private company, she should bring amount of Rs. 5,00,000/- for making arrangement for government job for him. She should not disclose that they are demanding the amount. Informant told her that her father has already incurred huge expenditure at the time of marriage, he will not be able to give that much amount. She refused to bring amount. Then applicant No. 3 started giving pinching words to her. Applicants Nos. 4 and 5 used to say ill things about her to applicant No. 3 and 1. Applicant No. 1 used to abuse and assault her on that count. They also used to give threat to her that if she discloses it to her parents, then she would be killed. Therefore, she had not disclosed it due to fear. She was assaulted at about 10.00 a. m. on 22.05.2018 on the ground that she is not bringing amount from her parents. Applicant Nos. 4 and 5 had caught hold of her and then applicant Nos. 1 and 3 had taken gold ornaments from her person. When they were unable to remove rings, they had given jerk resulting in injury to her ear lobe. She gave information about the incident to her father and maternal aunt. They came and tried to settle the dispute. Informant was taken by her aunt to her house. After residing for 2 to 3 days with her, informant went to her

parents' house. Since then she is residing there. None of the applicants had contacted her. She had tried to settle the dispute through Women Cell. However, applicant No. 1 went to her house on 15.06.2018 and gave threats. Therefore, she has lodged the report.

04. The applicants have contended that, respondent No. 2 had cohabited only for 20 days and then left the matrimonial house. Applicants had tried to take her back, but she has not responded. Applicant No. 1 had sent notice to her asking her to resume cohabitation. She did not reply. He has therefore, filed petition for restitution of conjugal rights before Family Court, Aurangabad. The FIR is baseless and concocted. Details of the events have not been given and they have been kept as vague as possible. Therefore, they have prayed for quashment of the FIR.

05. Heard learned Advocate Mr. Shaikh Kayyum Najir appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. M. M. Nerlikar and learned Advocate Mr. S. A. Nirban, 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 applicant 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 married sister-in-law applicant No. 4 and applicant No. 5. No specific role has been attributed against them 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 applicant Nos. 4 and 5 for themselves as per the allegations in the FIR itself. Moreover, applicant No. 4 is not residing at the matrimonial home of respondent No. 2. She ordinarily resides at her matrimonial home. Applicant No. 5, though resides with her brother and parents, she is taking education. Therefore, there is less possibility of her interference in the married life of her brother. 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 Nos. 4 and 5 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure.

07. Hence, following order;

ORDER

(i)Application of applicant Nos. 1 to 3 is disposed of as withdrawn.

(ii)Application of applicant Nos. 4 and 5 is hereby allowed.

(iii)Relief is granted in terms of prayer clause "B" to the applicant Nos. 4 and 5 only.

(iv)Rule made absolute in the above terms.

[SMT. VIBHA KANKANWADI]

JUDGE

[T. V. NALAWADE]

JUDGE

Dahibhate/-