

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

CRIMINAL APPLICATION NO. 5427 OF 2013

Manisha w/o Mangesh Kadam,
Age 34 years, Occ. Service,
R/o. Mahsul Colony, Taroda (Bk)
Tq. & Dist. Nanded.

... **Applicants**
(Orig. accused No. 4)

VERSUS

- 1) The State of Maharashtra.
Through Bhagya Nagar Police
Station, Nanded, Tq. & Dist.
Nanded.
- 2) Sarita @ Rupali Kishor Sarode,
Age 21 years, Occ. Household,
R/o. Bhimnagar, Mudkhed,
Tq. Mudkhed, Dist. Nanded.

... **Respondents.**
(respondent No. 2 is original
complainant)

...

Advocate for Applicants : Mr. M.V. Ghatage, h/f Mr. Gadegaonkar B.N.
APP for respondent No. 1/State : Mr. M.M. Nerlikar.
Advocate for respondent No. 2 : Mr. S.A. Gaikwad (appointed).

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

DATE : 1st AUGUST, 2018.

JUDGMENT (PER K.L. WADANE, J)

1. Rule. Rule made returnable forthwith. With the consent of the parties, this application is taken up for final hearing.

2. This application is filed by the applicant/original accused under the provisions of section 482 of the Code of Criminal Procedure for relief of quashing the first information report No. 172/2013 registered with Bhagya Nagar, police station, Nanded, for the offences punishable under section 498A, 323, 504 and 506 read with section 34 of the Indian Penal Code.

3. The brief facts of the case may be stated as follows:

(i) The applicant is the daughter of maternal aunt of the original accused No. 1 Kishor Sarode (husband of the complainant). The respondent No. 2/complaint lodged a complaint on 26.08.2013 by alleging that her marriage was performed with original accused No. 1 Kishor Sarode on 19.05.2011. In the marriage her father gave Rs. Five lakh as dowry and other household utensils. After marriage she was treated well for about four months. However, thereafter at the instigation of mother-in-law, sister-in-law namely Vandana and present applicant the husband of the complainant started beating and illtreating her. They kept the complainant on starvation. The husband (original accused No. 1) of the complainant also started demanding Rs. 10 lakh and Indica Car. In the month of November 2011 the father of the complainant gave Rs. 3 lakh to her husband. Thereafter she was treated well for about one month and again her husband demanded her Rs. 5 lakh for construction of house. When complainant refused to bring the amount, the applicant, mother-in-law and another sister-in-law of complainant assaulted the complainant. Lastly at the instigation of applicant and other accused the husband of complainant assaulted her and drove her out of the house. The applicant assaulted the complainant

with fist and kick blows and pushed the complainant out of the house. With these allegations, offence came to be registered against the applicant and others for the offences punishable under section 498-A, 323, 504, 506 read with section 34 of the Indian Penal Code.

4. We have heard the arguments of Mr. Ghatage, learned counsel for the applicant, Mr. Nerlikar, learned APP for the respondent No.1/State and Mr. Gaikwad, learned counsel for respondent No. 2.

5. Looking to the allegations of respondent No. 2 it appears that specific allegations of illtreatment, demand of money and assault are made against husband, mother-in-law and real sister-in-law. The applicant is a distant relative of the husband of complainant. The allegations against the applicant are vague and general in nature.

6. On perusal of record it also appears that in the complaint given by complainant before Women's Grievance Redressal Cell on 22.7.2013 she made allegations against her husband, mother-in-law and real sister-in-law. But it seems that later on the name of the applicant was inserted in the complaint. It is also to be noted that in the reply given by the complainant to the notice of her husband and in other complaints filed by her before Women's Grievance Redressal Cell, the complainant did not make any allegations against the applicant. Therefore, prima-facie it appears that to harass the applicant the complainant has added the name of applicant as an accused in the present crime. Furthermore, the applicant is in service and she is residing at Taroda (Bk) Tq. Nanded, so the allegations of the complainant that the applicant instigated her husband appears to be

doubtful. It appears that the applicant has no concern with the family matters of complainant and her husband.

7. In view of the above to prevent the abuse of process of law, we find that discretion needs to be exercised in favour of applicant. Hence, following order:

ORDER

1. Application of applicant Manisha Mangesh Kadam is allowed. Relief is granted to her in terms of prayer clause 'A'.
 2. Rule made absolute in those terms.
 3. Fees to be paid to the appointed learned counsel is quantified to Rs. 3000/- (Rs. Three Thousand only).
8. Criminal application is disposed of.

(K. L. WADANE, J.)

(T.V.NALAWADE,J.)

mkd/-