

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

Criminal Application No. 04813 of 2017

District : Aurangabad

1. Arjun Haribhau Bhivsane,
Age : 61 years,
Occupation : Nil,
R/o. Room No.411,
Build.-2, co-op.
Suraksha Hou. Society,
Mhada Colony, Vashi Naka,
Chembur (East), Mumbai.
2. Mathurabai Arjun Bhivsane,
Age : 55 years,
Occupation : Nil,
R/o. Room No.411,
Build.-2, co-op.
Suraksha Hou. Society,
Mhada Colony, Vashi Naka,
Chembur (East), Mumbai.
3. Vilas Arjun Bhivsane,
Age : 37 years,
Occupation : Service,
R/o. Narayan Nagar
Zopadpatti (B),
Mahatma Phule Nagar,
P.L. Lokhande Marg (N),
Chembur, Mumbai.
4. Aashvini Vilas Bhivsane,
Age : 28 years,
Occupation : Nil,
R/o. Narayan Nagar
Zopadpatti (B),
Mahatma Phule Nagar,
P.L. Lokhande Marg (N),
Chembur, Mumbai.

5. Mangesh Arjun Bhivsane,
Age : 29 years,
Occupation : Service,
R/o. Mahatma Phule Nagar,
P.L. Lokhande Marg, Chembur,
Mumbai.

6. Manisha Mangesh Bhivsane,
Age : 25 years,
R/o. Mahatma Phule Nagar,
P.L. Lokhande Marg,
Chembur, Mumbai.

7. Shamrao Govinda Vahul,
Age : 62 years,
Occupation : Labour,
R/o. at post Pimpalgaon,
Taluka Sillod,
District Aurangabad.

8. Anusaya Shamrao Vahul,
Age : 56 years,
Occupation : Labour,
R/o. at post Pimpalgaon,
Taluka Sillod,
District Aurangabad.

9. Suvarna Ranjit Dandge,
Age : 38 years,
Occupation : Nil,
R/o. 7/14, Mahatma Phule
Nagar, P.L. Lokhande Marg,
Chembur, Mumbai.

.. Applicants

versus

1. The State of Maharashtra.

2. Priya w/o. Kailash Bhivasane,
Age : 26 years,
Occupation : Household,
R/o. Aanand Park, Sillod,
Taluka Sillod,
District Aurangabad.

.. Respondents.

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***Application of applicant nos.01, 02 and 09 rejected
as not pressed, as per Court's order dated 19.09.2017.***

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Mr. Bhushan S. Borde, Advocate, for the applicants.

*Mr. A.A. Jagatkar, Additional Public Prosecutor,
for respondent no.01.*

*Ms. Uma S. Bhosle, Advocate (appointed), for
respondent no.02.*

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

DATE : 28TH SEPTEMBER 2018.

JUDGMENT *[Per Smt. Vibha Kankanwadi, J.] :*

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

02. 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. 22 of 2017, registered with Sillod Police Station, Sillod, Dist. Aurangabad for the offences punishable under Sections 498-A, 323, 504, read with 34 of the Indian Penal Code. It will not be out of place to mention here that relief claimed by applicants No. 1, 2 and 9 has been rejected by this Court vide order dt. 19-09-2017.

Hence, the application has been considered only for applicants No. 3 to 8. During the pendency of this application, charge-sheet has been filed vide R. C. C. No. 199 of 2017 before J. M. F. C., Sillod. Applicants have prayed for quashment of the said proceedings also, by way of amendment.

03. Respondent No.2 got married to Kailash Bhivsane on 26-04-2015 at Anand Park, Sillod. Applicants No.1 and 2 are the parents of husband of respondent No. 2. Applicants No.3 is brother of Kailash and applicant No. 4 is the wife of applicant No. 3. Applicant No.5 is another brother of Kailash and applicant No. 6 is the wife of applicant No. 5. Applicant No.7 and applicant No.8 are stated to be relatives of Kailash.

04. Respondent No.2 – informant has contended that, at the time of marriage, domestic articles were given. Her husband and relatives were residing together at Chembur (East), Mumbai. She was taken to Mumbai and treated properly for 8 days after the marriage. Thereafter, applicants No. 1 to 6 and Kailash started saying that her relatives had not honoured them at the time of marriage and proper gifts have not been given. Gold ring has not been given to Kailash. She was kept starved. They used to put latch the bathroom from outside, when she used to take bath. She was driven out of the house at night time.

Applicant No. 9 used to come on every Sunday and used to abuse her on trifling grounds. Applicants No. 7 and 8 had also gone to Mumbai on 2-4 times and abused, assaulted her on the count of non-fulfillment of demand of gold ring. She had narrated the harassment to her mother, brother and sister. Then she was taken to her mother's house in June 2015. She was taken back for cohabitation after a meeting at Pandhari, which was attended by husband, applicants No. 4, 5, 7 and 8. Again she was treated properly for one month. All the applicants started harassing her on the same count. She narrated it again to her mother, brother and sister. She was taken back to her mother's place on 10-06-2016. Applicants No. 1, 2, Kailash, 4, 5, 7 and 8 came on 15-12-2016 to take her back. Again a meeting was called at Pandhari. At that time, Kailash had assaulted her. When her brother went to rescue her, he was beaten by Kailash and his family members who were present there. They gave threat that they will not take her back for cohabitation and she is at liberty to lodge any case. Thereafter, her mother and others had contacted Kailash and others several times for her cohabitation, but all of them refused. She gave complaint application to Mahila Samudeshan Kendra. Efforts were made for reconciliation, but failed due to applicants. Therefore, she has lodged the report.

05. The applicants have contended that, they have not committed any offence. The FIR has been lodged

only to grab the property of Kailash. Applicants No. 3 to 6 are residing in another area since August 2014. Accused Nos. 7 and 8 are residents of Pimpalgaon, Tal. Sillod, Dist. Aurangabad. They never went to Mumbai. Applicants No. 3 to 8 have no reason to harass respondent No. 2. Respondent No. 2 wanted to kill applicant No. 1 and therefore, he has filed complaint against her with police. FIR has been given just to harass them. 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 proceedings.

06. Heard learned Advocate Mr. B. S. Borde appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. A. A. Jagatkar and learned Advocate Mr. U. S. Bhosale, appointed for respondent No.2. All of them have argued in support of their respective contentions.

07. The application was considered only for the allegations against applicants No. 3 to 8. 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, father-in-law, mother-in-law and applicant No. 9 in particular. The perusal of the entire FIR would show that all the applicants had made the demand in chorus which is not

possible when elders are there. Nothing was demanded by applicants No.3 to 8 for themselves as per the allegations in the FIR itself. Further it is alleged that the demand was of gold ring to Kailash. Charge-sheet is also filed after investigation against all the applicants. Perusal of charge-sheet would show that none of the witnesses have stated any specific role of applicants No. 3 to 8. The exact relation between applicants No. 1 7 and 8 is not stated by them. They can not be 'relatives' within Sec. 498A of Indian Penal Code. Applicant Nos. 3 to 8 are residents of other place. That means, they are residing separately from Kailash and respondent No. 2. So, it appears that, as a routine, all the relatives of the husband have been roped. It would be futile exercise to ask applicants No. 3 to 8 to face the trial. Under such circumstance, relief is required to be granted to the applicant No.3 to 8 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. 3 to 8 is hereby allowed.
- 2) Relief is granted in terms of prayer clause "B-1" to the applicants No. 3 to 8 only.
- 3) Application to the extent of applicants No.1, 2 and 9 was dismissed vide order dt. 19-09-2017.

4) Rule made absolute in the above terms.

08. The fees of the appointed Advocate is quantified at Rs.3000/- (Rupees Three Thousand Only), which shall be paid by the High Court Legal Services, Sub-Committee, Aurangabad.

(Smt. Vibha Kankanwadi)
JUDGE

(T.V. Nalawade)
JUDGE

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puranik (#) / CRIAPPLN4813.17

Bhagwan
Govindrao
Puranik

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