

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2724 OF 2018

- 1) Nirmala w/o Nishikant Jadhav,
Age 61 years, Occupation Household,
R/o "Nisarag" Plot No.203, Bishop Lyod
Colony, Savedi Road, Ahmednagar,
Tq. Dist. Ahmednagar.
 - 2) Namrata w/o John Barve,
Age 33 years, Occupation Service,
R/o "Pawana" Hydro Power Station,
Near Gram Panchayat, Pawana
Nagar, Adavi, Pune, Savedi Road,
Ahmednagar Tq. Dist. Pune.
 - 3) Nivedita w/o Deepak Shinde,
Age 31 years, Occupation Service,
R/o Plot No.23, Rajlakshmi Apartment,
Bholegaon Fata, ahmednagar
Tq. Dist. Ahmednagar.
 - 4) Rani @ Priya w/o Prashant Ghodke,
Age 45 years, Occupation Service,
R/o A-6, Cosmic Housing Society,
Balika Ashram Road, Savedi,
Ahmednagar Tq. Dist. Ahmednagar.
 - 5) Prashan s/o Ramchandra Ghodke,
Age 48 years, Occupation Service,
R/o as above.
 - 6) Sawan s/o Suresh Waghmare,
Age 35 years, Occupation Civil Contractor,
R/o Kothi Nagar, Near Patil Hospital,
Station Road, Ahmednagar
Tq. Dist. Ahmednagar.
- ...Applicants

Versus

1) The State of Maharashtra.

2) Preeti w/o Nikhil Jadhav,
Age 29 years, Occupation Service,
R/o At Nursing College Civil
Hospital Compound, Near Tarakpur
Bus Stand, Tarakpur, Ahmednagar
Tq. Dist. Ahmednagar.

...Respondents

Mr. A. P. Shejule, Advocate for applicants.

Mr. A. A. Jagatkar, Addl. Public Prosecutor, for respondent
No.1 / State.

Mr. A. A. Munde, Advocate for respondent No.2.

CORAM : T. V. NALAWADE &

SMT.VIBHA KANKANWADI. JJ.

DATE : 04-12-2018.

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 applicant No.1 Nirmala Nishikant Jadhav.

2. Permission granted. The application stands disposed of as withdrawn to the extent of applicant No.1.

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. 176 of 2018 dt. 05-08-2018, registered with Chhawani Police Station, Aurangabad, for the offences punishable under Section 498-A, 323, 504 read with 34 of the Indian Penal Code.

5. Respondent No.2 got married to one Nikhil Jadhav on 09-12-2016 at Aurangabad. Applicant No.1 is the mother of husband of respondent No.2, applicants No.2 and 3 are the sister-in-law, applicant No. 4 is cousin sister-in-law of respondent No.2. Applicant No. 5 is the husband of applicant No. 4. Applicant No. 6 is the friend of husband of respondent No. 2.

6. Respondent No.2 – informant has contended that, she is serving with Health Department in Civil Hospital, Ahmendnagar. She has completed her nursing course. She has taken training at J. J. Hospital, Mumbai. She was with Hiranandani Hospital, Pawai, Mumbai between 2011-2013 for higher studies. She joined as Tutor in Civil Hospital, after clearing CET. She had given her profile for matrimony in magazine. Applicants No. 1 and 2 were contacting her father since March 2016 for settlement of marriage with Nikhil. After the approval from both sides, the marriage was solemnized. It was decided that the marriage expenses would be born by both sides equally. However, the bridegroom side told that entire

expenses to the extent of Rs.15 lakhs should be born by her father. Her father incurred more expenses than that. Informant had taken leave for about a month after marriage and stayed at Ahmednagar. Thereafter, she resumed her duties and used to go to matrimonial home at the weekend. Her husband and applicants No. 1 to 3 treated her properly for about 4-5 months. Thereafter, they started harassing her by saying that she is unable to cook, wash cloths, sleeps more, etc. Her husband started raising suspicion over her character. They were demanding amount for construction of house. She gave Rs.1,33,000/-. She was then transferred to Ahmednagar on 01-06-2017. Her husband started saying that she should get that transfer cancelled. When her relatives made inquiry on 01-06-2017 as to why he is behaving so, he told that he has differences with her. He should be spared and till then she should go her parents' house. Her family members were put under mental tension. Thereafter, applicants No.1 to 3 and her husband started demanding divorce from her by raising suspicion over character. Her husband stopped talking to her. He wrote a chit on 16-12-2017 that he is in depression and does not want to stay with wife. He left the house. Applicant No.1 started abusing informant on that count by blaming her. Applicant No.1 had given missing complaint with police. Informant went to Aurangabad on 31-12-2017 as her grandmother had expired. Her husband returned on 30-12-2017. When she

returned to Ahmednagar, they told her to go back. Since then she is residing with her friend. She went to matrimonial home with her parents and relatives on 23-01-2018, at that time all the applicants and her husband were present. Applicants asked her whether she had love affair with anybody when she was at Mumbai. She told that one Santosh Thakur had harassed her by opening a fake account. She had lodged report about the same with Police. Applicants did not believe her and drove her out of the house. They told that they have proof of first marriage of informant, but they will not show. They again asked her to give divorce to husband. Thereafter, applicant No.2 went to her house at Aurangabad on 03-03-2018 and started raising suspicion over her character. She gave threat to defame her. Notices were exchanged between husband and wife. In notice reply, the husband has again raised suspicion and averred that she had married Santosh secretly and had undergone abortion, she is still in contact with him. With these allegations, she has lodged the report.

7. The applicants have contended that, they are innocent. Construction of the house of applicant No.1 was completed a year prior to the marriage of respondent No.2. Therefore, there is no question of demand of any amount for the same. Applicant No.1 is suffering from various illness. She is getting pension. Applicant No.2 is the government servant. She got married in 2009 as a nurse in

Pune district in 2013. She is residing at Pune. She has no reason to visit Ahmednagar again and again. FIR is baseless and concocted. Applicant No.4 is the cousin sister. She is serving as teacher and resides at a far place from the matrimonial home of respondent No.2. She is busy in her life. Applicant No.5 has nothing to do with dispute. He is serving as clerk in Maharashtra State Road Transport Corporation. Applicant No.7 is not related to the husband of respondent No.2. He has been unnecessarily dragged. Therefore, they have prayed for quashment of the proceeding.

8. Heard learned Advocate Mr. A. P. Shejul appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. A. A. Jagatkar and learned Advocate Mr. A. A. Munde, 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 No.1, he prayed for withdrawal of the application as against her.

9. The application was considered only for the allegations against the married sisters-in-laws – applicants No.2 and 3, cousin sister-in-law - applicant No.4, husband of applicant No.4 i.e. applicant No.5, and husband's friend of respondent No.2 i.e. applicant No.6. No specific role has been attributed against applicant No. 2 to 6 in respect of offence under Section 498-A of the Indian Penal Code.

Applicant No.6 is not even related to the husband of respondent No.2; therefore, he can not be booked under Section 498-A of Indian Penal Code. Applicant No.2 is serving at Pune since prior to the marriage of respondent No.2. Applicant No.3 got married on 26-04-2012. She is residing at her matrimonial home in Ahmednagar. Applicants No.4 and 5 are also residing in the same town. However, it is to be noted that the married sister-in-laws are busy with their own marital obligations. There was no reason for applicant No.5 to harass respondent No.2. Possibility of these persons taking part in settling the dispute between husband and wife and then failure of talks, has led their implication in the FIR. The causal visits of applicants to the matrimonial home of respondent No.2 can not be inferred for committing offence. The real dispute is between husband and wife. It would be a futile exercise to ask the applicants No.2 to 6 to face the trial with such kind of allegations. It appears that, as a routine all the relatives of the husband have been roped. Under such circumstance relief is required to be granted to the applicants No.2 to 6 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) The application of applicant No.1 Nirmala is disposed of as withdrawn.

- 2) Application of applicants No.2 to 6 is hereby allowed.
- 3) Relief is granted in terms of prayer clause "B" to the applicants No.2 to 6 only.
- 4) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.