

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2743 OF 2018

- 1) Subhash s/o Chaitram Pardeshi,
Age 60 years, Occupation Nil,
R/o Plot No. 1029, N-6 CIDCO,
Tq. Dist. Aurangabad.
 - 2) Sulochana w/o Subhash Pardeshi,
Age 52 years, Occupation Service,
R/o as above.
 - 3) Chetan s/o Subhash Pardeshi,
Age 33 years, Occupation Service,
R/o as above.
 - 4) Bhushan s/o Subhash Pardeshi,
Age 27 years, Occupation Service,
R/o as above.
 - 5) Mathurabai w/o Vitthal Pardeshi,
Age 76 years, Occupation Service,
R/o At Pardeshi Galli,
Tq. Kusumba Dist. Dhule.
- ...Applicants

Versus

- 1) The State of Maharashtra
Through – Police Inspector,
Dhule Taluka Station,
Tq. Dist. Dhule.
 - 2) Bhagyashri w/o Chetan Pardeshi,
Age 25 years, Occupation Self
Employment, R/o c/o. Kailash Bhikan
Pardeshi, Pamzra Colony (Fair Price Shop),
In Front of Narmadabai Nago Choudhary
Art and Science College,
At Post Kusumba, Tq. Dist. Dhule.
- ...Respondents

Mr. S. R. Kolhare, Advocate and Mr. P. S. Kochar, Advocate for applicants.

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

Mr. A. S. Sawant, Advocate for respondent No.2.

**CORAM : T. V. NALAWADE &
SMT.VIBHA KANKANWADI. JJ.**

DATE : 02-11-2018.

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 applicants No.1 to 4.

2. Permission granted. The application stands disposed of as withdrawn to the extent of applicants No.1 to 4.

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. 260 of 2018, registered with Dhule Taluka Police Station, Dhule, for the offences punishable under Section 498-A, 406, 323, 504, 506 read with 34 of the Indian Penal Code.

5. Respondent No.2 got married to applicant No. 3 on 05-03-

2017 at Galli No. 5, Dhangar Samaj Bhavan, Kusumba. Applicant No.1 and 2 are the parents of applicant No. 3, applicants No.4 is brother of applicant No. 3 and applicant No.5 is grandmother of applicant No.3 (Mother's mother).

6. Respondent No.2 – informant has contended that, her father had given gold ornaments, dowry of Rs.7,00,000/- at the time of marriage. Her father had also spent amount of Rs.1,51,000/- at the time of engagement ceremony. Applicant No. 1 runs an industry by name "Bhushan Industry" at Aurangabad. Applicants No. 1 and 2 reside at Aurangabad. Informant, her husband and his brother (applicant No. 4) started residing at Pune. Informant resided at Aurangabad for about 3 days after marriage and then went to Pune with husband. Applicants No. 1 and 2 went to Pune and then the dispute started. It was told to her that their industry has suffered losses and therefore, she should bring amount of Rs.50 lakhs from her father. She was also asked to search for a government job. Threats were given to her that if she does not do so, she will not be allowed to cohabit. She was assaulted and mentally harassed. She told them that her father will not be able to fulfill the demand. She was then taken by her husband and applicant No. 4 in four wheeler on 06-06-2017 under the pretext that they are going to Aurangabad. In fact she was taken to Kusumba. After reaching there, she was thrown out from the vehicle and her ornaments were taken away.

Applicant No. 5 had abused her. Therefore, she has lodged the report.

7. The applicants have contended that, there is delay in lodging FIR. Informant has lodged report with malafide intention to harass them. It is based on false and concocted story. Applicant No.3 has filed divorce petition against the complainant, and then complainant has filed FIR against 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 FIR.

8. Heard learned Advocate Mr. S. R. Kolhare appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. A. A. Jagatkar and learned Advocate Mr. A. S. Sawant, 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 No.1 to 4, he prayed for withdrawal of the application as against them.

9. The application was considered only for the allegations against the grandmother/ applicant No.5. No specific role has been attributed to her in respect of offence under Section 498-A of the Indian Penal Code. Only allegation is made that when informant was allegedly left at Kusumba, applicant No. 5 had abused. There are no allegations that she had at any point of time demanded any amount.

If at all there would have been a demand it would have been mainly by the husband and the father and mother-in-law. Applicant No. 5 is admittedly residing at Kusumba i.e separately from applicant No. 1 to 4. It is not explained as to why grandmother had abused informant. Mere using of word 'abuse', will not amount to 'cruelty' as contemplated in Section 498 A of Indian Penal Code. So, it appears that, as a routine the relative of the husband has been roped. Under such circumstance relief is required to be granted to the applicant No.5 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. 1 to 4 is disposed of as withdrawn.
- 2) Application of applicant No. 5 is allowed.
- 3) Relief is granted in terms of prayer clause "B" to the applicant No. 5 only.
- 4) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.