

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4941 OF 2017

1) Leelabai w/o Laxman Patil,
Age 65 years, Occupation Household,

2) Laxman s/o Govind Patil,
Age 71 years, Occupation Nil,

Both R/o Nitin Nagar, Behind Kulkarni
Hospital, Shahada Tq. Shahada
Dist. Nandurbar.

3) Sachin s/o Laxman Patil,
Age 39 years, Occupation Doctor,

4) Suvarna Sachin Patil,
Age 31 years, Occupation Household,

Both R/o Flat No. 8- B, Green Meadow,
Gulmohar Vihar, Pipeline Road,
Anandwali, Nashik Tq. Dist. Nashik.

...Applicants

Versus

1) The State of Maharashtra
Through the Investigation Officer,
In Crime No. 117 of 2017, registered
with Police Station, Sarangkhed
Dist. Nandurbar.

2) Bhagyashree w/o Suhas Patil,
Age 25 years, Occupation Household,
R/o At Post Pusnad Tq. Shahada
Dist. Nandurbar.

...Respondents

Mr. D. A. Mane h/f Mr. D. M. Pingale, Advocate for applicants.
Mr. M. M. Nerlikar, Addl. Public Prosecutor, for respondent
No.1 / State.

Mr. P. P. Chavan, Advocate for respondent No.2.

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

DATE : 10-10-2018.

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 and 2.

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 The application stands disposed of as withdrawn to the extent of applicants no.1 and 2.

3. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

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. 117 of 2017, registered with Sarangkhedha Police Station, Dist. Nandurbar, for the offences punishable under Section 498-A, 323, 504 read with 34 of the Indian Penal Code.

5. Respondent No.2 got married with Suhas Laxman Patil on 07-06-2014. Applicants No.1 and 2 are the parents of husband of respondent No. 2. Applicant No.3 is the brother of husband of respondent No. 2 and applicant No.4 is of the wife of applicant No.3.

6. Respondent No.2 – informant has contended that, her father had spent around Rs.10-12 lakhs on her marriage. Her husband Suhas is M. E. (Ph.d) and works for a software company in Bankok. He had obtained divorce from his first wife. Her husband was residing with his parents at Shahada. Suhas resided for 5 days after marriage. He did not consummate the marriage during that period. He had not talked properly with his wife. After he left, respondent No. 2 resided at Shahada for about 5 months. During the said period, applicant No. 2 and 3 used to say that her father has not given proper and expensive gifts to them. They used to give pinching words to her. She had tried to convince that her parents have spent as per their financial capacity. Her husband was not talking properly with her on phone. He used to abuse her. She had disclosed the said facts to her parents. Her husband had assured that he would take her to Bankok in May, after his return to India. He came in October 2014 and stayed for about 4-5 days. At that time also he stayed away from her. He was not talking with her. Then both of them went to Bankok. His behaviour at that place was also of avoiding nature. He used to assault her on the ground that her parents have not given proper gifts. He was picking quarrels with her on trifle grounds. She was sent alone to India after about 40-45 days stay at Bankok. Respondent No. 2 was residing with her in-laws. Applicant No. 4 and 5 used to visit their house from Nasik.

They used to threatened her that she would be left, like the first wife of Suhas. All of them asked her to go to parental house. She went to her father's house in January 2015 and informed all the incidents. Her parents had tried to contact applicant No. 2 and 3, but they refused to take her back. She had filed application for maintenance and for restitution of conjugal rights, but none of the opponents appeared in the matter. When she had gone to invite applicants for the marriage of her cousin brother, applicants had driven her out of the house. Her husband has changed the phone number and has not established any contact with her. Therefore, she has lodged the report.

7. The applicants have contended that, the allegations in the FIR are vague in nature. No offence is made out from those contentions. There is delay in lodging FIR, which has not been properly explained. Applicant No. 3 and 4 are residing at Nasik. Applicant No. 3 is a medical practitioner at Nasik. FIR has been lodged just to harass them. Therefore, they have prayed for quashment of the proceeding.

8. Heard learned Advocate Mr. D. A. Mane h/f. D. M. Pingale appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. M. M. Nerlikar and learned Advocate Mr. P. P. Chavan, appearing on behalf of respondent No.2. Perused the affidavit-in-reply by respondent No. 2 and investigating officer opposing the grant of the

application. 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 and 2, he prayed for withdrawal of the application as against them.

9. The application was considered only for the allegations against the applicant No. 3 and 4. Contents of the FIR would show that applicant No. 3 and 4 are ordinarily residing at Nasik in connection with the profession of applicant No. 3. Respondent No. 2 was residing with applicant No. 1 and 2 even after Suhas had gone to Bangkok. Even after she was sent back from Bangkok, she was residing with applicant No. 1 and 2 only. The occasional visits of applicant No. 3 and 4 to their village will not be inferred that was with intent to commit crime. No specific role has been attributed against them in respect of offence under Section 498-A of the Indian Penal Code. There are no allegations that they had ever asked for gifts for themselves. 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. 3 and 4 are admittedly not residing with applicant no. 1 and 2 permanently. It would be a futile exercise to ask them to face trial. So, 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.5 and 6 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 and 2 is disposed of as withdrawn.
- 2) Application of applicant No. 3 and 4 is allowed. Relief is granted to them in term of prayer clause "B".
- 3) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.