

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2797 OF 2018

Salubai Manoj Panchal,
Age : 35 years,
Occu. : Private Service,
Original R/o Village Pimpla Bhatya,
Taluka : Purna, Dist. Parbhani
Now Residing at More Chowk,
Bajaj Nagar, Aurangabad,
Taluka and District : Aurangabad. ...Applicant

Versus

- 1] The State of Maharashtra
Through the Officer Incharge,
Police Station, Basmath (Rural),
Taluka : Basmathnagar,
Dist. Hingoli.
- 2] Umakant Chandraprakash Panchal,
Age : 42 years, Occu. : Agriculture,
R/o Village Wakhari,
Taluka : Basmathnagar, Dist. Hingoli. ...Respondents

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Mr. Akshay Kulkarni, Advocate H/F, Mr. R. S. Deshmukh,
Advocate for Applicant.

Mr. M. M. Nerlikar, A. P. P. for Respondent No. 1.

Mr. S. H. Panchal, Advocate for Respondent No. 2.

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**CORAM : T. V. NALAWADE &
SMT. VIBHA KANKANWADI, JJ.**
DATE : 23-10-2018.

JUDGMENT : (Per Smt. Vibha Kankanwadi, J)

01. Cri. Application No. 3060 of 2018 is filed by the original informant to assist assistant public prosecutor i.e. for seeking permission under Section 301(2) of Cr. P. C. and Cri. Application No. 2797 of 2018 is filed by original accused No. 5 for quashing the F. I. R. Respondent No. 2 in this petition is the applicant in Cri. Application No. 3060 of 2018 and therefore, the said application for assist to A. P. P. is allowed.

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

03. Cri. Application No. 2797 of 2018 is filed for invoking inherent powers of this Court under Section 482 of Cr. P. C. to quash and set aside F. I. R. vide C. R. No. 103 of 2018 dated 26.8.2018 registered with Basmat (Rural) Police Station, Tq. Basmat Nagar, Dist. Hingoli for the offence punishable under Section 498A, 306, 323 read with Section 34 of I. P. C.

04. Respondent No. 2 / informant has come with a case that he has 2 daughters Ashwini and Rukhmini @ Anita

and 2 sons Pravin and Arvind. Rukhmini @ Anita was given in marriage to one Ramdas Vishwanath Panchal about 2 years prior to the F. I. R. At the time of marriage, he had given dowry of Rs. 1,21,000/-, one tola gold as well as the domestic articles. Rukhmini was treated properly for about a year by her in-laws. However, thereafter all the accused persons i.e. her husband, father-in-law, mother-in-law, brother-in-law and sister-in-law started insulting Rukhmini on trifle grounds. They were asking her to bring amount from her parents. Her father had taken respectable persons with him to persuade. However, there was no change in the behaviour of in-laws. Rukhmini had given phone call at about 9 AM on 25.8.2018 to her father and asked as to who is coming to fetch her for Rakhipournima. At that time, informant told that he would send his son. He heard the cries of Rukhmini and then he asked as to what has happened. At that time, she told that all the accused are harassing her. Thereafter, the mother-in-law took the phone and told informant that he should give understanding to daughter to behave properly, otherwise she should be taken back. Thereafter, at about 11.30 AM to 12.00 PM son-in-law gave phone call to the informant asking as to whether Rukhmini has come to his house. Informant asked as to what has happened, then son-in-law

told told that Rukhmini went for agricultural operations in the field, but, she has not reached. Thereafter, informant went alongwith some persons to the matrimonial home and they all had searched for Rukhmini. They found Rukhmini's chappals and utensils near the well in the field of her husband. But, she could not be found. Therefore, missing report was lodged. However, her dead body was found in the said well on 26.8.2018. Thereafter, the report was lodged stating that she has committed suicide because of the harassment and cruel treatment given to her by all the accused persons.

05. The applicant contents that she is the married sister of husband of Rukhmini. Her marriage was performed after the marriage of Rukhmini with Ramdas. Applicant is now working with DTK Press Company at Aurangabad. She has also stated that before marriage she was studying in Shivaji Engineering College at Parbhani and was residing in the girls hostel. She was not residing at Sarola after the marriage between Rukhmini and Ramdas. Her name has been falsely implicated. No specific role is attributed to her and therefore, she has prayed for quashment of the report.

06. Heard Mr. Akshay Kulkarni, learned Advocate H/F, Mr. R. S. Deshmukh, learned Advocate for Applicant, Mr. M.

M. Nerlikar, learned A. P. P. for Respondent No. 1 and Mr. S. H. Panchal, learned Advocate for Respondent No. 2. Perused the Police Papers.

07. The perusal of the F. I. R. would show that only omnibus statement has been made as regards the present applicant is concerned. It is intentionally not stated that she is the married sister. Further, omnibus statement has also been made in respect of demand of amount. How much amount was demanded and what kind of physical harassment was given by this applicant has also not been stated in specific words. Statements of the witnesses recorded up till now would also show that only omnibus statement has been made as against the present applicant. Therefore, it would be futile exercise to ask the present applicant, who is the married sister of husband of the deceased to face the trial. Case is made out to invoke the inherent powers of this Court under Section 482 of Cr. P. C. within the parameters laid down in **State of Haryana and Ors. V/s Bhajanlal and Ors., [1992 Supplement -1 Supreme Court Cases, 335],.**

08. Hence, following order;

ORDER

(i) Criminal Application No. 2797 of 2018 is

allowed.

(ii)Relief is granted in terms of prayer clause

"C".

(iii)Criminal application filed for permission

to assist the learned A. P. P. is allowed.

(iv)Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI]

[T. V. NALAWADE]

JUDGE

JUDGE

Dahibhate/-.