

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2857 OF 2018

- 1] Samadhan Anantrao Kulkarni,
Age : 32 years, Occu. : Private
Service,
R/o Bajaj Nagar, Aurangabad.
Tq. & Dist. Aurangabad.
 - 2] Anantrao Uddhavrao Kulkarni,
Age : 62 years, Occu. : Nil,
R/o Poharegaon, Tq. Renapur,
Dist. Latur.
 - 3] Meenabai Anantrao Kulkarni,
Age : 58 years, Occu. : Household,
R/o As above.
 - 4] Shailesh Anantrao Kulkarni,
Age : 38 years, Occu. : Service,
R/o Sahadeo Shilp Housing Society,
Opp. Ganpati Temple, Bajaj Nagar.
Aurangabad.
 - 5] Swati Shailesh Kulkarni,
Age : 34 years, Occu. : Household,
R/o As above.
 - 6] Shubhangi Sanjay Dhat,
Age : 34 years, Occu. : Household,
R/o Anandnagar, Ambajogai,
Tq. Ambajogai, Dist. Beed.
 - 7] Ragini Ajit Kulkarni,
Age : 30 years, Occu. : Household,
R/o Vishwashanti Colony, Vallabh
Nagar,
Pimpri, Pune.
- ...Applicants

Versus

- 1] The State of Maharashtra,

Through Police Station,
Renapur, Tq. Renapur,
Dist. Latur.

- 2] Rucha Samadhan Kulkarni,
Age : 25 years, Occu. : Household,
R/o Mantri Nagar, Sut Mill Road,
Latur, Tq. & Dist. Latur. ...Respondents

.....

Mr. I. D. Maniyar, Advocate for Applicants.

Ms. V. S. Choudhari, A. P. P. for Respondent No. 1-
State.

Mr. Nikhil Jaiswal (appointed) Advocate for
Respondent No. 2.

Ms. Poonam V. Bodke Patil, Advocate for Respondent
No. 2.

.....

**CORAM : T. V. NALAWADE &
SMT. VIBHA KANKANWADI, JJ.**
DATE : 28-11-2018.

JUDGMENT : (Per Smt. Vibha Kankanwadi, J.)

01. 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.
0274 of 2018, registered with Renapur Police Station,
Renapur, Dist. Latur for the offences punishable under
Section 498-A, 323, 504, 506 read with 34 of the Indian

Penal Code.

02. Respondent No. 2 got married to applicant No. 1 on 29.11.2017. Applicant No.1 is the husband of respondent No. 2, applicants No. 2 and 3 are the parents, and applicants No. 4 is brother of applicant No. 1. Applicant No. 5 is wife of applicant No. 4. Applicant No. 6 and 7 are the sisters of applicant No. 1.

03. Respondent No. 2 – informant has contended that her father had given gold ornaments of 6 tolas and domestic articles at the time of marriage. After marriage she went to Pohregaoon at her matrimonial house to cohabit with her husband. She was treated properly. When she became ill, the applicants did not give medical assistance. She therefore, told the said fact to her parents. They gave her treatment at Latur and then sent her to matrimonial home. Thereafter, applicants started harassing her mentally and physically. She was asked to do all household work. Applicant No. 1 was not talking with her. He started saying that he is not approving her, she is fat. He has performed marriage only for the sake of his parents. Applicant No. 1 then went to Aurangabad, where he was serving. He did not return. He was saying that she should not disclose anything to anybody. There

was no consummation of marriage. All the other applicants started harassing her on the count that she is not good looking and fat, she can not have child. She had tried to establish physical relations with husband, but found that he is not capable. When she tried to disclose it to other applicants, they ignored her. She had developed medical problem and again her harassment increased. She was driven out of the house by saying that she should bring amount of Rs. 1,00,000/- for treatment. When she had shown the medicines to her own doctor at Aurangabad, it was told that those medicines are not good. She underwent surgery. The expenses were born by her father and none of the applicants went to see her. Therefore, she has lodged the report.

04. The applicants have contended that, the FIR is baseless and concocted. Respondent No. 2 had sent notice before lodging FIR. There was no demand as stated in FIR in the said notice. In fact, respondent No. 2 was having medical problem since prior to marriage, but she had not disclosed it. Applicant No. 1 was physically fit. He has got himself checked by doctor and his report say that he is fit. She has filed application under Domestic Violence Act as well as private complaint for offence punishable under Section 420 r/w. 34 of Indian Penal Code has been

filed. This is another step to harass them. Respondent No. 2 was residing separately with applicant No. 1 at Aurangabad. Applicants Nos. 2 to 7 have been unnecessarily dragged. There is huge delay in lodging FIR. Respondent No. 2 has no intention to cohabit with him. Therefore, they have prayed for quashment of the proceeding.

05. Heard learned Advocate Mr. I. D. Maniyar appearing on behalf of applicants, learned Addl. Public Prosecutor Ms. V. S. Choudhary and learned Advocate Ms. Poonam Patil, appearing on behalf of respondent No. 2. Heard appointed Advocate Mr. Jaiswal also, since he was appointed prior to filing of vakalatnama by Ms. Patil. 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 him.

06. The application was considered only for the allegations against the applicants No. 2 to 7. No specific role has been attributed against them in respect of offence under Section 498-A of the Indian Penal Code. It appears that the real dispute is between the husband and wife, that too on the point of non-consummation of

marriage. Initially, though allegations are made for not giving medical treatment for fever, but it can be seen that treatment was given for her gynecological problem at Aurangabad. Thereafter, the allegations have been made that there was demand of Rs. 1,00,000/- for treatment. Who has exactly made that demand, when is not clarified. The perusal of the entire FIR would show that all of the applicants had made the demand in chorus which is not possible. Applicant Nos. 4 and 5 are residing at Aurangabad. Applicant No. 6 is residing at Ambajogai and No. 7 at Pune. Casual visits of daughters of applicants No. 2 and 3 to their house, can not be inferred for the purpose of offence only. Details of alleged role played by each of them is not explained. Under such circumstance, it would be futile exercise to ask them to face trial. 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 7 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure.

07. Hence, following order;

ORDER

(i) Application in respect of applicant No. 1

Samadhan is disposed of as withdrawn.

(ii)Application for applicants No. 2 to 7 is hereby allowed.

(iii)Relief is granted in terms of prayer clause "B" to the applicant Nos. 2 to 7 only.

(iv)If the charge-sheet is already filed, it is to be presumed that the relief is also given for the quashing of charge-sheet also.

(v)Rule made absolute in the above terms.

(vi)The fees of the appointed Advocate is quantified @ Rs. 3,000/- (Three Thousand Rupees only).

[SMT. VIBHA KANKANWADI]

JUDGE

[T. V. NALAWADE]

JUDGE

Dahibhate/-