

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 5574 OF 2017

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| 1. Kisan s/ Vithoba Kamble
Age 65 years, Occu: Retired, | ... Applicants
(Orig.Accused) |
| 2. Rajamati w/o Kisan Kamble
Age 60 years, Occu: Housewife | |
| 3. Vijay s/o Kisan Kamble
Age 40 years, Occu: Busienss | |
| 4. Ashwini w/o Vijay Kamble
Age 35 years, Occu: Houewife | |
| 5. Dhananjay s/o Kisan Kamble
Age 38 years, Occu: Business | |
| 6. Varsha Dhananjay Kamble
Age 30 years, Occu: Housewife | |
| 7. Ajay Kisan Kamble,
Age 36 years, Occu: Service
All R/o Plot No.35, Gat No.148,
Chandrashekhar Nagar, Satara
Parisar, Aurangabad. | |
| 8. Neeta w/o Ratan Gaikwad
Age 43 years, Occu: Service
R/o Flat No.2, Varma Park
Kaspatewasti, Wakad, Pune. | |
| 9. Ratan s/o Bapurao Gaikwad,
Age 48 years, Occu: service,
R/o Flat No.2, Varma Park
Kaspatewasti, Wakad, Pune. | |

VERSUS

1. The State of Maharashtra
Through Satara Police Station,
Satara Parisar, Aurangabad
Taluka & Dist. Aurangabad

2. Virbala w/o Ajay Kamble ... Respondents
Age 36 years, Occu: Service
R/o C/o Shrinivas Ahire,
Agasti Colony, CIDCO N-9,
Aurangabad, Tq. & Dist. Aurangabad

Mr. Sanghmitra Wadmare, Advocate for the applicants
Mr. P. G. Borade, APP for the respondent State.
Ms. Puja V. Langhe, Advocate for respondent No.2

**CORAM : T. V. NALAWADE AND
K. L. WADANE, JJ.**

DATE: : 25th June, 2018

JUDGMENT (Per K. L. Wadane, J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, the application is taken up for final hearing.

2. The application is filed under section 482 of the Code of Criminal Procedure for relief of quashing of first information report bearing Crime No. 382/2017 registered with Satara Police Station, Aurangabad, Tq. & Dist. Aurangabad for the offence punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code. By way of amendment, the applicants have also challenged Charge-Sheet No.I-189/2017 filed before the Ld. C.J.M. Aurangabad and prayed for quashing the same.

3. Respondent No.2/original complainant lodged

first information report against the present applicants on 3.08.2017 alleging that she was married to applicant No.7 Ajay Kamble on 04.12.2011 and started living with her husband. It is alleged that she was treated well by applicants initially for 7/8 months. Applicant Nos. 1 to 7 are residing together at Satara Parisar, Aurangabad. It is alleged that the applicants started insulting and ill-treating the complainant on trivial issues. They asked the complainant to bring Rs. 5 lakh from her parents for construction of house and in pursuance to the demand, applicants started ill-treating the complainant, they used to beat her and harass her physically and mentally and she was kept without food. With these allegations, offence came to be registered against the applicants accused for the offences punishable under sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

4. Heard Mr. Sanghmitra Wadmare, learned for the applicants, Mr. P. G. Borade, learned APP for the respondent State and Ms. Puja V. Langhe, learned counsel for respondent No.2.

5. On perusal of the contents of the first information report it appears that specific allegation

of demand of money, ill-treatment and harassment are made against applicant Nos. 1 to 7 who are residing jointly. Applicant Nos. 1 to 2 are father and mother of applicant No.7-husband whereas applicant Nos. 3 to 7 are his brothers and their wives, respectively. There are specific allegations against them that they have harassed the complainant and kept her without food, taken her ornaments and were beating her in pursuance of demand of money.

6. From the record, it appears that Applicant No. 8 is married sister of applicant No.7-husband and applicant No.9 is husband of applicant No.8. Allegation against them is that time and again they were instigating her husband against the complainant and were abusing the complainant. It appears that applicant Nos. 8 and 9, both are in service and are residing separately at Pune, and they have no direct concern with the family affairs of the applicants 1 to 7 and complainant.

7. On perusal of the first information report, it appears that there is no material particular quoting any specific incident of visit or about ill-treatment or harassment against applicant Nos. 8 and 9 so as to

attract ingredients of section 498-A of the Indian Penal Code. Allegations against applicant Nos. 8 and 9 in the first information report are vague and general in nature. No specific act or overt-act is attributed to them. There is no specific instance or material particular which would strengthen the allegation of the complainant that there was harassment or ill-treatment at the hands of applicant Nos. 8 and 9. On its face, the complaint does not constitute any offence against applicant Nos. 8 and 9. Hence, to prevent the abuse of process of law, we find that discretion needs to be exercised in respect of Applicant Nos. 8 and 9. Hence following order:

O R D E R

- i. Application of applicant Nos. 8 Neeta w/o Ratan Gaikwad and Applicant No.9 Ratan s/o Baurao Gaikwad is hereby allowed.
- ii. First information report bearing Crime No. 382/2017 registered with Satara Police Station, Aurangabad, Tq. & Dist.Aurangabad and Charge-Sheet No.I-189/2017 filed before the Ld. C.J.M. Aurangabad for the offence punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code

are hereby quashed and set aside to the extent of
Applicant Nos. 8 to 9.

iii. Application of Applicant Nos. 1 to 7 is
rejected.

iv. Rule is made partly absolute in the above terms.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC