

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

CRIMINAL APPLICATION NO. 6149 OF 2015

1. Chandrakant s/o Kundlik Jagtap, ... **Applicants**
Age 50 years, Occu: Service, (Orig.Accused)
R/o Shahartakli, Tq. Sheogaon,
District Ahmenagar.
2. Rekha @ Latabai w/o Chandrakant
Jagtap, Age 45 years,
Occu: Household,
R/o Shahartakli, Tq. Sheogaon,
District Ahmenagar.
3. Kundlik s/o Ramchandra Jagtap,
Age 78 years, Occu: Nil
R/o Shahartakli, Tq. Sheogaon,
District Ahmenagar.
4. Saraswati @ Janabai w/o Kundlik
Jagtap, Age 68 years
Occu: Household,
R/o Shahartakli, Tq. Sheogaon,
District Ahmenagar.
5. Vijaya w/o Babasaheb Patkal
Age 42 years, Occu: Tisgaon
Tq. Pathardi, Dist. Ahmednagar

VERSUS

1. The State of Maharashtra
Through Police Station Officer
Gondi Police Station,
District Jalna
2. Lata @ Ashwini w/o Rajaram ... **Respondents**
Jagtap, Age 25 years,
Occu: Household R/o Shahartakli
Tq. Sheogaon, Dist.Ahmenagar.
At present r/o c/o Bhanudas s/o
Masu Wavdhane, Kothala Tq.
Ambead, District Jalna.

Mr. S. B. Ghute, Advocate for the applicants
Mr. S. J. Salgare, APP for the respondent State.
Mr. N. C. Garud, Advocate for respondent No.2

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

DATE: : 6thJune, 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 applicants/original accused Nos. 3 to 7 have filed this application challenging criminal proceedings bearing R.C.C. No. 209/2015 arising out of the first information report bearing Crime No.I-62/2015 registered with Gondi Police Station Tq. Ambad Dist. Jalna and also prays for quashing the same.

3. Applicant No.1 is a serviceman, applicant No.2 is wife of applicant no.1, whereas applicant Nos. 3 and 4 are father and mother of applicant No.1 and petitioner No.5 is married sister of applicant No.1.

4. On perusal of the first information report, it appears that complainant Lata @ Ashwini w/o Rajaram Jagtap married with accused No.1 Rajaram Jagtap in the year 2008. After the marriage, she came to know

that accused No.1 Rajaram Jagtap already married with accused No.2 Padma. Since there was no issue from Padma, accused No.1 performed marriage with the complainant Lata.

5. It is alleged by the complainant that after her marriage, her husband Rajaram had taken her to Bhandgaon Taluka Parner, where he was serving. Accused Rajaram was illtreating the complainant on the instigation of his first wife Padma. Accused No.1 Rajaram Jagtap and accused No.2 Padma were ill-treating the complainant and beating her. It is further alleged that the present applicants/original accused used to visit the house of complainant and accused Rajaram now and then, they were instigating the accused Rajaram, due to which accused Rajaram used to abuse and beat the complainant. Accused Rajaram was also demanding Rs.50,000/- from her for opening Grocery Shop. With these allegations, offence came to be registered against the accused Rajaram, Padma and the present applicants for the offences punishable under sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

6. During investigation, the Investigating Officer

has recorded statements of various witnesses and submitted the charge-sheet. We have perused the statement of witnesses i.e. father, mother, brothers, sisters and brother-in-law of the complainant and other witnesses recorded by the investigating officer. Statement of all these witnesses are in line with the contents of the first information report. Almost all the allegations which are appearing in the first information report are reproduced in the statements of the witnesses.

7. From the record, it appears that Applicant No.5 i.e. original Accused No.7 Vijaya w/o Babasaheb Patkal, who is sister of husband of the complainant, seems to be residing at village Tisgaon, Taluka Pathardi, away from the village where the complainant and accused Rajaram were residing. At the relevant time complainant and accused No.1 were residing at Bhandgaon Tq. Parner. It is nowhere clear from the statements of the witnesses that applicant No.2 -Rekha @ Latabai w/o Chandrakant Jagtap and Applicant No.5 Vijaya w/o Babasaheb Patkal, original accused Nos. 4 and 7 respectively, had been to the village Bhandgaon at any point of time.

8. Accused Nos. 2 and 5 are the ladies. They are sister-in-laws of the complainant. One can understand about the allegations against mother-in-law, father-in-law and brother in-laws. But herein the present case, allegations against applicant Nos.2 & 5 are absolutely vague. There is no evidence on record to show that applicant Nos.2 and 5 have ill-treated the complainant in any manner.

9. On perusal of the statements of witnesses, it appears that what is stated in the first information report by the complainant against the applicants have been repeated. There is no material particular quoting any specific incident of visit or about ill-treatment or harassment against applicant Nos. 2 and 5 so as to attract ingredients of section 498-A of the Indian Penal Code. In the first place, allegations in the first information report are general in nature. No specific act or overt-act is attributed to the applicant Nos. 2 and 5. Secondly, even if the allegations in the first information report are taken at its face value, there is no specific instance or material particular which would strengthen the allegation of the complainant that there was harassment

or ill-treatment as contemplated under the provisions of Section 498-A I.P.C. so as to even make out a prima facie case against applicant Nos. 2 and 5.

10. In view of the above, we find considerable force in the argument of Mr. Ghute, learned counsel for the applicants for quashing the criminal proceedings to the extent of applicant Nos. 2 and 5. As such case is made out to the extent of applicant Nos. 2 and 5. Hence following order:

O R D E R

- i. Application of applicant No.2 -Rekha @ Latabai w/o Chandrakant Jagtap and Applicant No.5 Vijaya w/o Babasaheb Patkal is hereby allowed in terms of prayer clause (C).
- ii. The application of other applicants stand rejected.
- iii. Interim relief in respect of other applicants is vacated. Trial to proceed.
- iv. Rule is made partly absolute in the above terms.

(K. L. WADANE, J.)

(T. V. NALWADE, J.)

JPC