

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6484 OF 2015

- 1) Vachishta s/o. Viththal Munde,
Age : 27 years,
Occupation : Agriculture,
R/o. Bhogalwadi, Taluka Dharur,
District Beed.
- 2) Viththal s/o. Raghu Munde,
Age : 65 years,
Occupation : Agriculture,
R/o. as above.
- 3) Sou. Kusabai w/o. Viththal Munde,
Age : 60 years,
Occupation : Household,
R/o. as above.
- 4) Maruti s/o. Viththal Munde,
Age : 33 years,
Occupation : Education,
R/o. K.S.K. college road, Beed,
Taluka & Dist. Beed.
- 5) Sou. Ashabai w/o. Shankar Ghule,
Age : 40 years,
Occupation : Household,
R/o. Gavandara,
Taluka Dharur, Dist. Beed.
- 6) Shankar s/o. Limba Ghule,
Age : 50 years,
Occupation : Agriculture,
R/o. Gavandara,
Taluka Dharur, Dist. Beed.

...Applicants

Versus

- 1) The State of Maharashtra
Through Superintendent of Police,
Beed.
- 2) The Officer in-charge,
Police Station, Dharur,
Taluka Dharur, Dist. Beed. ...Respondents

Mr. N. K. Bangar, Advocate for applicants.

Mr. A. A. Jagatkar, Addl. Public Prosecutor, for respondent
No.1 / State.

Mr. V. S. Undre , Advocate for respondent No.2.

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

DATE : 25 -09-2018.

ORAL JUDGMENT : (Per SMT. VIBHA KANKANWADI, J.)

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

2. 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. 151 of 2015, registered with Dharur City Police Station, Tal. Dharur, Dist. Beed for the offences punishable under Section 498-A, 323, 504, read with 34 of the Indian Penal Code. Charge-sheet came to be filed during the pendency of application vide R. C. C. No. 1300119 of 2015 before Judicial

Magistrate First Class, Dharur. Prayer is also made for quashing the said proceedings.

3. Respondent No.2 got married to applicant No.1 on 30-04-2007 at Bhogalwadi. Applicant No.1 is the husband of respondent No.2, Applicant No.2 and 3 are his parent-in-laws. Applicant No. 4 is brother-in-law . Applicant No. 5 is sister-in-law and applicant No. 6 is husband of applicant No. 5.

4. Respondent No.2 – informant has contended that, at the time of marriage her father had given domestic articles, jewellery and dowry of Rs.2,00,000/-. She was treated properly for one and half year after marriage at her matrimonial home. She has son by name Omkar aged 6 from applicant No. 1. After one and half years of marriage, all the applicants started harassing her. They started demanding amount of Rs.2 lakhs for purchase of tractor by saying that dowry was not given as per their status. All the applicants used to abuse her, starve her and mentally harass her. She disclosed the said fact to her parents and others. They all had persuaded applicants, but it did not change the behaviour of applicants with her. She was driven out of the house in the month of Aashadh in 2013 by saying that she should not return without money. She had given complaint application to Mahila Takrar Kendra on 28-09-2015, but there was no compromise. Therefore, she has lodged the report.

5. The applicants have contended that, respondent No. 2 was unhappy with applicant No. 1 due to the different financial condition in her parents house and matrimonial home. Applicant No. 1 was unemployed and it was in her mind all the time. She had voluntarily left the matrimonial home. Husband had made several efforts to bring her back, but in vain. She wanted to carve her share out of the property of applicants. She has therefore instituted suit for partition on behalf of her son. Only omnibus statements are made about alleged harassment. Details of the events have not been given and they have been kept as vague as possible. Applicant No. 3 to 6 are resident of Beed and Gavandara respectively. They have not done any act of harassment. Therefore, they have prayed for quashment of the proceeding.

6. Heard learned Advocate Mr. N. P. Bangar appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. A. A. Jagatkar and learned Advocate Mr. V. S. Undre, appearing on behalf of respondent No.2. 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 to 3, he prayed for withdrawal of the application as against them.

7. The application was considered only for the allegations against the brother-in-law applicant No. 4, married sister-in-law applicant

No.5 and her husband applicant No.6. No specific role has been attributed against them in respect of offence under Section 498-A of the Indian Penal Code. They are resident of Beed and Gavandara respectively. Applicant No. 5 and 6 got married prior to the marriage between respondent No. 2 and applicant No. 1. Respondent No. 2 in her deposition in Cri. Application No. 463 of 2015, before J. M. F. C., Dharur has given admissions to that effect. Visits of applicant No. 4 to 6 to the house of applicant No. 1 to 3, can not be termed as visits with an intention to commit crime. It is alleged that there was demand of amount to the respondent No. 2. If at all there would have been a demand it would have been mainly by the husband, the father and mother-in-law. The perusal of the entire FIR would show that all of them had made the demand in chorus which is not possible when elders are there. Nothing was demanded by applicants No. 4 to 6 for themselves as per the allegations in the FIR itself. So, it appears that, as a routine all the relatives of the husband have been roped. It would be futile exercise to ask applicant No. 4 to 6 to face trial. Perusal of the charge-sheet would also make it clear that none of the witnesses have attributed specific role to these applicants. Under such circumstance relief is required to be granted to the applicants No. 4 to 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. 4 to 6 is hereby allowed.
- 2) Relief is granted in terms of prayer clause "B" as well as in respect of charge-sheet. R. C. C. No. 1300119 of 2015 pending before Judicial Magistrate First Class, Dharur is hereby quashed and set aside to the applicants No. 4 to 6 only.
- 3) Application to the extent of applicants No.1 to 3 is hereby disposed of as withdrawn.
- 4) The amount of Rs.1,000/- already deposited to be given to the respondent, first informant.
- 5) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.