

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

Criminal Application No. 06502 of 2015

District : Jalgaon

1. Abhilash Bhaurao Borkar,
Age : 33 years,
Occupation : Service,
Presently R/o. Flat No.103,
Bhavya Heights CHS,
Datta Mandir Road,
Vakola, Santacruz (E),
Mumbai - 400 055.

2. Bhaurao Daduram Borkar,
Age : 73 years,
Occupation : Pensioner.

3. Indumati Bhaurao Borkar,
Age : 63 years,
Occupation : Household.

Applicants no.2 and 3 are
R/o. 09, VIP Colony, Pachora,
Taluka Pachora, Dist. Jalgaon.

4. Anil Gangadhar Sonawane,
Age : 42 years,
Occupation : Service (Teacher).

5. Vaishali Anil Sonawane,
Age : 40 years,
Occupation : Service (Teacher).

Applicants no.4 & 5 are
R/o. Plot No.08,
Bhawarlal Nagar,
Pachora, Dist. Jalgaon.

.. Applicants.

versus

1. The State of Maharashtra,
Through Pachora Police Station,
Dist. Jalgaon.

2. Sau. Vaihali @ Anvaya
Abhilash Borkar,
Age : 27 years,
Occupation : Household,
R/o. C/o. Rahul Shamrao
Sonawane, Gadgebaba Nagar,
Pachora, Dist. Jalgaon. .. Respondents.

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*Mr. S.B. Kadu, Advocate, holding for
Mr. Bhausahab S. Deshmukh, Advocate, for the
applicants.*

*Mr. S.J. Salgare, Additional Public Prosecutor,
for respondent no.01.*

*Ms. Anuradha S. Mantri, Advocate, for
respondent no.02.*

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**CORAM : T.V. NALWADE &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 09TH OCTOBER 2018

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. 206 of 2015 dt. 24-11-2015,

registered with Pachora Police Station, Dist. Jalgaon, for the offences punishable under Section 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code. By way of amendment, applicants have prayed for the quashment of proceedings before Judicial Magistrate First Class, Pachora, Dist. Jalgaon bearing No. R. C. C. No. 1300205 of 2015, as the charge-sheet came to be filed in the matter after investigation.

3. Respondent No.2 got married to applicant No.1 on 28-04-2013 at Jain Pathshala, Pachora. Applicant No.1 is the husband of respondent No.2, applicants No.2 and 3 are the parents of applicant No.1. Applicant No.5 is sister of applicant No.1. Applicant No. 4 is the husband of applicant No.5.

4. Respondent No.2 – informant has contended that, after marriage she went to VIP colony, Pachora at her matrimonial house to cohabit with her husband. Her husband was staying with his parents. Her sister-in-law and her husband were also residing in the same town. They used to visit the house of applicant No. 1 frequently. They all started demanding amount of Rs.10

lakhs for purchasing Car. She told them that her father has already spent huge amount at the time of marriage and therefore, it will not be possible for him to give money. Thereafter, all the applicants started her harassing physically and mentally. They used to ridicule her. Applicants No. 4 and 5 used to abuse her when they used to visit her by saying that she will not bring any amount. Husband used to assault her on the instigation. He was asking her to give divorce. She had disclosed the incidents to her parents. She has got daughter from applicant No. 1. All the applicants asked her on 12-11-2015 at about 9.00 a. m. as to why she is not taking decision of divorce. They assaulted her and abused. She had consumed sleeping pills due to tension. She was admitted to hospital. She did not lodge any complaint taking into consideration future of herself and daughter. Efforts were made to resolve the dispute, but applicants kept on making demand. Therefore, she has lodged the report.

5. The applicants have contended that, the report has been lodged at the instigation by mother of respondent

No. 2. Respondent No. 2 was insisting that she, her husband and daughter should reside separately either at Pachora or with her parents. There was no dispute between husband and wife. Applicant No. 1 is serving in Bank of India as Assistant General Manager & Chief Operating Officer. He is now deputed at Diamond Branch Mumbai. He visits Pachora occasionally. His yearly income is Rs.6 lakhs. Applicant No. 2 is a retired Principal of Senior College. Applicants No. 4 and 5 are serving as Teacher. They are having their own four wheeler. They reside separately since last 15 years. Details of the events have not been given and they have been kept as vague as possible. Therefore, they have prayed for quashment of the FIR and proceeding.

6. Heard learned Advocate Mr. S. B. Kadu h/f Mr. B. S. Deshmukh appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. S. J. Salgare and learned Advocate Ms. Anuradha S. Mantri, appointed for 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 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. If at all there would have been a demand it would have been mainly by the husband and the father-in-law 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 and 5 for themselves as per the allegations in the FIR itself. Moreover, applicants No. 4 and 5 are admittedly residing separately. It is stated that they used to visit matrimonial home of respondent No. 2 very frequently. Even if it is true, it is to be noted that the allegations about so called harassment at their hands is very vague. So, it appears that, as a routine all the relatives of the husband have been roped. Perusal of charge-sheet would also show that only omnibus statements are made involving applicants

No. 4 and 5 by the witnesses. It would be futile exercise to ask them to face trial with such kind of evidence. Under such circumstance, relief is required to be granted to the applicants No. 4 and 5 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 and 5 is hereby allowed.
- 2) Relief is granted in terms of prayer clause "BB" to the applicants No. 4 and 5 only.
- 3) Application to the extent of applicants No.1 to 3 is hereby disposed of as withdrawn.
- 4) Rule made absolute in the above terms.
- 5) Fees of the appointed Advocate for respondent No. 2 is quantified at Rs.3,000/- (Rupees Three Thousand Only), to be paid through High Court Legal Services Authority, Sub-Committee, Aurangabad.

(Smt. Vibha Kankanwadi)
JUDGE

(T.V. Nalawade)
JUDGE

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