

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

CRIMINAL APPLICATION NO. 6555 OF 2015

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| <p>1. Trambak s/o Shenpadu Shejwalkar
Age 74 years, Occu: Nil
R/o Shejwalkar Nagar, Bhadgaon
Road, Chalisgaon, Tq. Chalisgaon
Dist. Jalgaon.</p> <p>2. Chandrabhaga @ Yamunabai w/o
Trambak Shejwalkar
Age 68 years, Occu: Household,
R/o Shegwalkar Nagar, Bhadgaon Road,
Chalisgaon, Tq. Chalisgaon Dist. Jalgaon</p> <p>3. Ravi s/o Trambak Shejwalkar
Age 41 years, Occu: Nill,
R/o Shejwalkar Nagar,
Bhadgaon Road, Chalisgaon, Tq.
Chalisgaon, Dist. Jalgaon.</p> <p>4. Minakshi Rajendra Marathe
Age 45 years, Occu: Household
R/o Shahada Tq. Shahada Dist. Dhule</p> | <p>...</p> | <p>Applicants
(Orig.Accused)</p> |
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VERSUS

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| <p>1. The State of Maharashtra
Through Nandurbar Railway Police
station, Nandurbar.</p> <p>2. Shri Shantaram s/o Kisan Gunjal
Age 53 years, Occu: Electrical
Contractor, Room No. 1443, Morwali
Village, Gunjal Chal, Near Ganpti
Mandir, Ambarnath, Dist. Thane.</p> | <p>...</p> | <p>Respondents</p> |
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Mr. K. M. Nagarkar, Advocate for the applicants
Mr. M. M. Nerlikar APP for the respondent State.

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

DATE: : 6th July, 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. 57/2015 registered against the applicants with Nandurbar Railway Police Station, Dist. Nandurbar for the offence punishable under Sections 306, 498-A, 323, 504, 506 of the Indian Penal Code.

3. Respondent No.2/ Original complainant lodged complaint alleging that his daughter Ujwala (deceased) was married to one Yaduraj Trambak Shejwalkar, son of his sister on 26.01.2004. Accused Nos. 1 and 2 are father-in-law and mother-in-law of her daughter, Applicant No.3 Ravi is brother-in-law and Applicant No.4 Minakshi is sister-in-law of deceased Ujawala. After marriage deceased was residing with her husband at Nandurbar. It is alleged that his daughter was time and again informing the complainant she was

being subjected to harassment, ill-treatment and cruelty by her husband.

When she had been to maternal home, she had narrated that her husband and accused used to harass her physically and mentally.

However since the applicants were close relative of the complainant, he convinced them not to ill-treat his daughter and once husband Yaduraj executed duly notarized bond that henceforth he would not harass or illtreat deceased Ujawala. However, again she was subjected to harassment and illtreatment by her husband and the present applicants.

In-laws of the deceased were creating suspicion about character of the deceased in the mind of her husband and therefore husband used to beat the deceased and harass her mentally and physically. It is alleged that on 17.08.2015 at about 9.00 a.m. complainant received a phone call of his daughter Ujwala and she stated that she was being beaten and harassed by her husband and her husband was taking suspicion on her character. Then the complainant planned visit her daughter, however, in the afternoon, at 02.00 he received a phone call of his sister Chandrabhaga i.e. mother-in-law of his deceased daughter that Ujawala committed suicide. With these allegations, complainant lodged the complaint and the offence as referred above came to be registered against the accused/ applicants.

4. During investigation, the Investigating Officer has recorded statements of various witnesses. We have perused the statement of witnesses i.e. father, mother, brother of the deceased. Their statements are in line with the contents of the first information report. Witness Usha Ramesh Tamboli, who was neighbour of deceased at Nandurbar has stated in her statement that on the day of incident, the deceased was crying and talking with her brother on phone and on that day also she was seriously beaten and abused by her husband in filthy language. In his statement witness Jayesh Pagare, who is also neighbour has stated that father-in-law, mother-in-law, sister-in-law used to touch and taunting the deceased and her husband Yaduraj was seriously beating her.

5. Heard Mr. Nagarkar, learned for the applicants and Mr. Nerlikar, learned APP for the State.

6. On perusal of the contents of the first information report, and statement of witnesses it appears that allegations of harassment, ill-treatment, cruelty, ill-treatment, instigation are made against the husband Yaduraj and applicant Nos. 1, 2, 4. There are specific allegations against them that the applicants were taunting the deceased

and instigating her husband to beat her. Instances of harassment are given in the F.I.R. In view of the contents of the first information report and the material collected during investigation against applicants, prima facie, it is seen that there is sufficient evidence against the applicants 1, 2 and 4 to proceed further with the criminal case. Therefore, we are not inclined to exercise discretion in respect of applicant Nos. 1, 2 and 4.

7. From the record, it appears that Applicant No. 3 is brother-in-law of the deceased, brother of the husband of the deceased. Allegation against him is that time and again he was also instigating husband of the deceased against the deceased. It appears that applicant No 3. is residing separately at Shahada Dist. Dhule. There was no occasion for him to harass or instigate the husband of the complainant on the grounds stated in the FIR and he has no direct concern with the family affairs of deceased and her husband.

8. 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 or instigation against applicant No.1 so as to attract ingredients of the offence alleged against him. Allegations

against applicant No.3 in the first information report are vague and general in nature. No specific act or overt-act is attributed to them. On its face, the complaint does not constitute any offence against applicant No.3. Nothing can be achieved if criminal proceedings are allowed to be continued against applicant No.3. Therefore, we found considerable force in the argument of Mr. Nagarkar, learned counsel for the applicant for quashing the F.I.R. to the extent of the applicant No.3.

9. In view of the above, in order to prevent the abuse of process of law, we find that discretion needs to be exercised in respect of Applicant No.3. Hence following order:

ORDER

- i. Application of applicant No.3. Ravi s/o Trambak Shejwalkar is hereby allowed.
- ii. First information report bearing Crime No. 57/2015 registered against the applicants with Nandurbar Railway Police Station, Dist. Nandurbar for the offence punishable under Sections 306, 498-A, 323, 504, 506 of the Indian Penal Code is hereby quashed and set aside to the extent of Applicant No. 3 only.

- iii. Application of applicant Nos. 1, 2 and 4 is rejected. Interim relief granted in their favour is vacated.
- iv. Rule is made partly absolute in the above terms.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC