

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6645 OF 2015

- 1) Ramesh s/o Tejrao Pawar,
Age 40 years, Occupation Agriculture,
R/o Jatwa Tq. Phulmbri,
Dist. Aurangabad.
- 2) Tejrao s/o Pandurang Pawar,
Age 65 years, Occupation Agriculture,
R/o Jatwa Tq. Phulmbri,
Dist. Aurangabad.
- 3) Subhadrabai w/o Tejrao Pawar,
Age 60 years, Occupation Agriculture,
R/o Jatwa Tq. Phulmbri,
Dist. Aurangabad.
- 4) Nandabai w/o Ramesh Pawar,
Age 35 years, Occupation Agriculture,
R/o Jatwa Tq. Phulmbri,
Dist. Aurangabad.

**(Proceeding is rejected as withdrawn in
respect of applicants No.1 to 4 vide order
dated 17-12-2015.)**

- 5) Murlidhar s/o Tejrao Pawar,
Age 30 years, Occupation Agriculture,
R/o Jatwa Tq. Phulmbri,
Dist. Aurangabad.

...Applicants

Versus

- 1) Sow Shakuntala w/o Ramesh Pawar,
C/o Karbhari Eknath More,
R/o Bhabhulgaon (Khurd),
Tq. Phulmbri Dist. Aurangabad.
- 2) The State of Maharashtra,
Through the Police Inspector,
Police Station Wadod Bazar,

Tq. Phulmbri Dist. Aurangabad.

...Respondents

Mr. Shivprasad G. Jadhavar, Advocate for applicants.

Mr. M. R. Jamdhade, Advocate for respondent No.1.

Mr. R. V. Dhasalkar, Addl. Public Prosecutor, for respondent No.2 / State.

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

DATE : 15-10-2018.

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

1. At the outset it is made clear that, proceeding in respect of applicants No.1 to 4 is already not pressed, hence the application is already rejected in respect of those applicants under order dated 17th December, 2015.

2. Rule. Rule made returnable forthwith. By consent heard both the sides for final disposal.

3. 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 bearing Cr. No. 110 of 2015 dt. 10-10-2015 registered with Wadad-Bazar Police Station, Tal. Phulambri, Dist. Aurangabad, for the offences punishable under Section 498-A, 323, 504, read with 34 of the Indian Penal Code.

4. Applicant No.1 is the husband of respondent No. 1-informant.

Applicants No. 2 and 3 are his parents and Applicant No. 4 is the wife of applicant No. 1. Applicant No. 5 is the brother of applicant No. 1.

5. Respondent No.1 – informant has contended that, applicant No. 1 is her husband. She got married to applicant No. 1 on 19-06-2009. Her paternal aunt and aunt's husband had settled the said marriage. Applicant No. 1 was earlier married to applicant No. 4, however, as she has no issue, applicant No. 1 had married informant. She was treated properly for about two years by applicants. However, she also could not conceive during that period and therefore, all the applicants started harassing her. They were asking her to bring amount of Rs.1,00,000/- for the treatment to have child and then she should take treatment. All of them were saying that they will not give any share in the property of applicants. They used to treat her as maid-servant. She had disclosed harassment to her parents. All the applicants quarreled with her in February 2013 and drove her out of the house. After the persuasion by elders she went for cohabitation. However, there was no change in the behaviour of applicants. She was driven out of the house by applicants again after quarrel on 19-05-2013. She had approached Women cell of the police, but no compromise could take place. Therefore, she has lodged the report on 20-10-2015.

6. The applicants have contended that, the FIR has been filed because of some misconception and at the instance of relatives of respondent No. 1. Applicants have been unnecessarily roped by the respondent No. 1. The allegations in the FIR are different from the allegations made in the proceedings under Domestic Violence Act. There is delay of more than one year in lodging the FIR. The allegations are false and frivolous. No such incident had ever taken place as narrated in the FIR. Perusal of FIR would show that no offence has been made against them. Therefore, they have prayed for quashment of the FIR.

7. Heard learned Advocate Mr. Shivprasad G. Jadhavar appearing on behalf of applicants, learned Advocate Mr. M. R. Jamdhade appearing for respondent No.1 and learned Addl. Public Prosecutor Mr. R. V. Dhasalkar for respondent No. 2-State.

8. The application was considered only for the allegations against the applicant No. 5- the brother of husband. At the outset, it is to be noted that informant herself has come with a case that when she got married to applicant No. 1, he was already married. She had the knowledge about his previous marriage, still she says that she had married to applicant No. 1. The fact of marriage between applicant No. 1 with respondent No. 1 is not denied by the applicants in specific terms in the application. It would be for the Trial Court to

consider as to under such circumstance, whether provisions of Sec. 498-A of Indian Penal Code can be applied or not against applicants No. 1 to 4. However, as regards applicant No. 5 is concerned, there are no specific allegations against him. His name has been taken along with other applicants. When husband and his parents are involved then it is less likely that applicant No. 5 would have played any role in demand of amount and driving her out of the house. It appears that he has been roped as routine, to implicate all the relatives of husband. It would be futile exercise to ask applicants No. 5 to face the trial. Under such circumstance relief is required to be granted to the applicant No. 5 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) Proceedings in respect of applicants No. 1 to 4 is already not pressed, hence, the application stands rejected in respect of those applicants under order dated 17-12-2015.
- 2) The application is hereby allowed in respect of applicant No. 5-Murlidhar Tejrao Pawar..
- 3) Relief is granted in terms of prayer clause "B" to him only.
- 4) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.