

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6566 OF 2017

- 1) Manohar s/o Sampat Bachhav,
Age 36 years, Occupation Doctor/Private
Service,
R/o Plot No.15, Shwaswat Apartment,
Ekta Coloney Shriram Chouk, Rajguru
Nagar, Nasik.
- 2) Mangalbai w/o Sampat Bachhav,
Age 62 years, Occupation Household,
- 3) Sampat s/o Mahadu Bachhav,
Age 67 years, Occupation Agri.,
Both R/o Phulewadi Post. Malewadi
Tq. Devola Dist. Nasik.
- 4) Sarla w/o Pramod Pawar,
Age 44 years, Occupation Household,
R/o A-103, Hari Sankul Phase-2,
Ashoka Marg, Nasik.
- 5) Anil s/o Daulat Jadhav,
Age 48 years, Occupation Business,
R/o Anand Apartment,
Chetnanagar, Nasik.
- 6) Yogita w/o Anil Jadhav,
Age 34 years, Occupation Household,
R/o Anand Apartment,
Chetnanagar, Nasik.
- 7) Rajshri Dhananjay Gaikwad
(As per F.I.R. Jayshri Dhananjay Gaikwad)
Age 34 years, Occupation Household,
R/o Kruti Residency, Behind Saikripa
Hospital, Mhasrulawal Link Road,
Nasik.

- 8) Ratanabai w/o Dhanraj Patil,
Age 32 years, Occupation Household,
R/o Mandurane, Chalisgaon
Dist. Jalgaon.

...Applicants

Versus

- 1) The State of Maharashtra
Through I.O. Of
Thophkhana Police Station,
Dist. Ahmednagar.

- 2) Pooja Manohar Bachhav,
Age 34 years, Occupation Doctor,
R/o Ashtavinayak Colony, Pipeline
Road, Savedi, Ahmednagar.

...Respondents

Mr. P. B. Patil, Advocate for applicants.

Mr. R. V. Dasalkar, Addl. Public Prosecutor, for respondent
No.1 / State.

Mr. H. U. Dhage, Advocate for respondent No.2.

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

DATE : 03-12-2018.

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

1. Rule. Rule made returnable forthwith. By consent, heard both sides for final disposal.
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. 434 of 2017, registered with Tophkhana Police Station, Ahmednagar, for the offences punishable under Section 498-

A, 323, 504, 506 read with 34 of the Indian Penal Code.

3. Respondent No.2 got married to applicant No.1 on 02-05-2015. Applicant No.1 is the husband of respondent No.2, applicants No.2 and 3 are the parents of applicant No.1. Applicant No.4 is sister and applicant No. 5 is the brother of applicant No.2. Applicant No.6 is the wife of applicant No. 5. Applicants No. 7 and 8 are the sisters of applicant No.1.

4. Respondent No.2 – informant has contended that, she went to Nasik for cohabitation, after the marriage. Applicants No. 1 to 3 were residing applicant No.1. Applicant No. 1 was about to give up marriage ceremonies on the say of applicant No.5 on the ground of photos; however, he was advised and then the ceremonies were completed. Informant was treated properly only for 3-4 days. Thereafter, she realized that her husband who is Medical Practitioner, receives phone calls from his girl-friends at night time also. When she asked about the same, he told that she should stay with him as it is if she want to cohabit with him. When she disclosed the said fact to applicants No.2 and 3, they did not pay attention to her. Other applicants also did not support her. They used to instigate by saying that she should cohabit as the things are or she may go back to her parents. Applicants used to say that they wanted a bride from their caste to show to others. Applicant No.2 had given gold

ornaments of the informant to applicant No.4 by giving security reasons. They have not been returned by them. Applicant No.1 had illicit relations with his girl-friends. When informant told the said fact to applicant No.7 and 8, she received same response. Applicant No.7 had tried to do black magic on her. Applicants had tried to extract pardon message from her by recording it. Thereafter, applicants started demanding Rs.10 lakhs for construction of hospital for applicant No.1. She had conveyed the fact of harassment given to her to her parents. She was driven out of the house on 16-04-2016. She had tried to settle the dispute several times, but in vain. Therefore, she has lodged the report.

5. The applicants have contended that, there is delay of about 18 months in lodging FIR. Applicants No.2 to 8 are residing separately. They have been falsely involved in the dispute between husband and wife. Some omnibus statements have been made just to suit the FIR. Informant had gone to her parents house in April 2016 and did not return back. FIR has been filed just to harass them. 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 proceeding.

6. Heard learned Advocate Mr. P. B. Patil appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. R. V. Dasalkar and

learned Advocate Mr. H. U. Dhage, appearing on behalf of respondent No.2.

7. Perusal of the FIR would show that, after the marriage respondent No.2 went to reside with her husband and in the same house the applicants No.2 and 3 i.e. the parents of her husband were also residing. Specific allegations have been made as to what acts done by applicants No.1 to 3 amounted to harassment or cruelty for her. They are reproduced while narrating the story in para No.03, and therefore, they are not reproduced her. Under such circumstance, no case is made out to exercise any kind of discretion in favour of the applicants No.1 to 3.

8. Admittedly, applicants No.4 to 8 were not residing with applicants No.1 to 3 on permanent basis. Their causal visits need not be inferred for committing offence only. Circumstance of not returning of gold ornaments by applicant No.4 will not amount to 'cruelty'. No specific role has been attributed against applicants No.4 to 8 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 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. Nothing was demanded by applicants No.4 to 8 for themselves as per the allegations in the FIR

itself. Applicant No.7 and 8 are the married sister-in-law. They are residing at their matrimonial home. Applicant No.6 is the wife of applicant No.5. Except the allegations that these applicants were not supporting informant and were saying that she should reside by accepting the facts as they are. These allegations do not fall within the ambit of term 'cruelty' or 'harassment' as contemplated in Section 498-A of Indian Penal Code. It appears that, as a routine all the relatives of the husband have been roped. It would be a futile exercise to ask applicants No.4 to 8 to face trial. Under such circumstance relief is required to be granted to the applicants No.4 to 8 only by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) The application of applicant No. 1 to 3 is rejected.
- 2) The application of applicant Nos. 4 to 8 is hereby allowed.
- 3) Relief is granted in terms of prayer clause "F" to the applicant Nos.4 to 8 only.
- 4) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE