

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 7243 OF 2017

- 1) Dinesh Bhagwan Bhoi,
Age : 30 years,
Occupation : Service.
- 2) Bhagwan Shivalal Bhoi,
Age : 62 years,
Occupation : Retired.
- 3) Shakuntala Bhagwan Bhoi,
Age : 60 years,
Occupation : Household.

Nos.1 to 3 R/o. Laxmi Nagar,
Kanalda Road, Behind Wakhar,
Galli no.2, Jalgaon,
Taluka & Dist. Jalgaon.

- 4) Chetan Bhagwan Bhoi,
Age : 32 years,
Occupation : Service.
- 5) Varsha Chetan Bhoi,
Age : 30 years,
Occupation : Household.

Both R/o. Swamiraj Apartment,
Flat No.8, Bhuwaneshwar,
Post Warse, Taluka Roha,
District Raigad.

- 6) Kailas Pralhad Bhoi,
Age : 37 years,
Occupation : Service,
Galli No.2, Kanalda Road.
- 7) Swati Aruna Bhoi,
Age : 21 years,
Occupation : Student,

R/o. Gendalal Mill, Shivaji Nagar,
Jalgaon, Tal. & Dist. Jalgaon.

- 8) Sanjay Dagdu Bhoi,
Age : Major,
Occupation : Labour,
R/o. Khanderao Nagar,
Jalgaon.
- 9) Ranjana Sanjay Bhoi,
Age : 41 years,
Occupation : Household,
R/o. Shimpi Mali Galli,
Pimprala,
Tal. & Dist. Jalgaon.
- 10) Arun Shivilal Bhoi,
Age : - ,
R/o. Gendalal Mill, Shivaji Nagar,
At present Erandol, Jalgaon,
Tal. & Dist. Jalgaon.

...Applicants

Versus

- 1) The State of Maharashtra
Through Police Inspector,
City (Shehar) Police Station,
Tal. & Dist. Jalgaon.
- 2) Dhanashri Dinesh Bhoi,
Age : 26 years,
Occupation : Household,
R/o. Behind Government Rest
House, Neri Digar, Neri,
Tal. Jamner, Dist. Jalgaon.

...Respondents

Mr. Girish Nagori, Advocate for applicants.
Mr. A. A. Jagatkar, Addl. Public Prosecutor, for respondent
No.1 / State.
Mr. R. B. Dhakane, Advocate for respondent No.2.

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

DATE : 01-10-2018.

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

1. At the outset, learned Advocate for the applicants seeks permission to withdraw the application to the extent of applicant nos.1 to 3.
2. Permission granted. The application stands disposed of as withdrawn to the extent of applicant nos.1 to 3.
3. Rule. Rule made returnable forthwith. By consent, heard finally.
4. 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. 192 of 2017, registered with City Police Station, Jalgaon, for the offences punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.
5. Respondent No.2 got married to applicant No.1 on 26-05-2016 at Jalgaon. Applicant No.1 is the husband of respondent No.2, applicants No.2 and 3 are the parents of applicant No.1, and applicants No.4 is brother of applicant No.1 and applicant No.5 is wife of applicant No.4. Applicant No. 6 and 7 are the maternal uncle and aunt of applicant No. 1. Applicant No. 8 is the relative from paternal side of applicant No. 1. Applicants No. 9 and 10 are distant relatives of applicant No.1.

6. Respondent No.2 – informant has contended that, after marriage she went to Jalgaon at her matrimonial house to cohabit with her husband. Her husband used to reside with his parents. Applicants No. 6 and 7 were residing near to her matrimonial home. She was treated properly for about 2-3- months. Thereafter applicants No. 1 to 3 started saying that they want to purchase flat at different place in Jalgaon and therefore she should bring amount of Rs.5 lakhs from her father. She told them that it is not possible for the poor financial condition of her father. Then applicant No. 1 to 3 started ill-treating her. Her husband used to assault her. Applicants No. 2 and 3 used to instigate applicant No. 1 by saying that she should be left at her father's place, if she is not ready to bring amount from her father. They used to say that applicant No. 1 can perform second marriage. In the meantime, at the time of vacations, applicants No. 4 and 5, who used to reside at Roha visited Jalgaon. Applicants No. 4 to 9 started abusing her on the count of illegal demand of amount. Applicant No. 1 used to beat her in presence of other applicants. Other applicants were instigating applicant No. 1. She became pregnant, but still she was harassed. She was driven out of the house, when she was pregnant of three months. She had therefore lodged complaint application with Dakshata Samitee, Jalgaon. Husband had promised her to take back after delivery. In spite of her delivery, applicants have not taken her back. Again she approached Samitee. She was then taken to her matrimonial home. However, all the applicants started saying that she has begotten female child and therefore, they will not allow her to cohabit. Her daughter was ill on 25-11-2017, but instead of taking her to hospital, respondent No. 2 was abused. Her ornaments were taken away and she was driven out of the house. Therefore, she has lodged the report.

7. The applicants have contended that, the FIR has been lodged only with an intention to harass them. There is inordinate delay in lodging FIR. The FIR does not disclose commission of any offence against applicants No. 4 to 10. They all are residing at different places. Applicant No. 4 is a government servant, who is residing at a distance of more than 1000 km. In fact, it was the demand of respondent No. 2 to reside separately from applicant No. 2 and 3. Her demand was refused by applicant No. 1 on the ground of advanced age of parents. Applicant No. 1 was apprehending such action by respondent No. 2 and therefore, he had lodged a complaint with police prior to FIR. FIR is based on false and concocted story. 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.

8. Heard learned Advocate Mr. Girish Nagori appearing on behalf of applicants, learned Addl. Public Prosecutor Mr. A. A. Jagatkar and learned Advocate Mr. R. B. Dhakane, appearing on behalf of respondent No.2. Respondent No. 2 has filed her affidavit-in-reply and has also filed certain documents on record. 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.

9. The application was considered only for the allegations against the brother-in-law, his wife, maternal uncle and aunt as well as distant relatives. No specific role has been attributed against them in respect of offence under Section 498-A of the Indian Penal Code. All the while allegations are made that they were instigating applicant No. 1. What way they used to instigate is not given. 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 when elders are there. Nothing was demanded by applicants No. 4 to 10 for themselves as per the allegations in the FIR itself. Why these applicants will have common intention with applicant No. 1 to 3? Moreover applicants No. 4 and 5 are residing at Roha. Their casual visits to the house of applicant No. 1 to 3 can not be presumed with an intention to commit crime of any nature. Applicant No. 7 to 10 are distantly related. Why they should enter into the affairs of family matters of applicant No. 1 to 3, which is painted as routine affair. So, it appears that, as a routine all the relatives of the husband have been roped. Under such circumstance relief is required to be granted to the applicants No. 4 to 10 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 10 is hereby allowed.
- 2) Relief is granted in terms of prayer clause "B" to the applicants No. 4 to 10 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.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.