

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO.680 OF 2017

(Ku. Dhanashri d/o Babusingh Rathod Vs. State of Maharashtra thr. PSO PS Patur,
Dist. Akola)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri U.J. Deshpande, Advocate for Applicant.
Shri V.A. Thakare, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE OF RESERVING THE ORDER: 11.07.2018

DATE OF PRONOUNCING THE ORDER: 13.07.2018

The applicant is facing prosecution under section 498-A and 323 read with section 34 of the Indian Penal Code.

2] One Preeti Sunil Rathod lodged complaint against her husband Sunil Rathod and as many as 11 family members including the applicant, on the basis of which complaint Crime 155/2015 was registered with the Police Station Patur, District Akola.

3] The investigation culminated in the submission of charge-sheet in the Court of Judicial Magistrate First Class, Patur. The applicant moved an application Exh.67 in R.C.C. 87/2016 seeking discharge, which application is rejected by the learned Magistrate by order dated 11.01.2017. The applicant invoked the revisional jurisdiction of the Additional Sessions Judge, Akola in Criminal Revision 7/2017 which revision is rejected by

order dated 18.07.2017. The applicant is invoking the inherent powers of the court.

4] The submission of the learned counsel Shri U.J. Deshpande is two fold. The first submission is that even if the entire material on record is taken at face value the likelihood of conviction is too remote to warrant a trial. The other submission is that the accusations against the applicant are improbable and incredible and it is writ large on the face of the material on record that the prosecution is an abuse the process of law and the over implication and false implication of even the distinct relatives is due to vindictiveness.

5] Shri U.J. Deshpande invites my attention to the first information report lodged by the complainant Preeti Sunil Rathod. The complainant married Sunil Rathod on 28.05.2002. The date of birth of the applicant is 02.11.1991 and she was hardly ten and half years old when Preeti and Sunil entered into matrimonial alliance. The report alleges that Preeti was harassed and ill-treated by her husband Sunil and other family members since the marriage on the issue of bringing money from her parental home. The only accusation in the said report against the applicant is a general and vague statement that all the 12 accused were mentally and physically ill-treating Preeti. Pertinently, Preeti does disclose in the report that the applicant was residing separately.

6] I have perused the statements recorded under section 161 of the Code of Criminal Procedure, and having

done so, I am satisfied that the material on record is grossly insufficient to raise even a strong suspicion. It is quite obvious that every relative of the husband is roped in, in the crime. Other than the absolutely general and vague statement in the first information report, and which statement appears to be inherently improbable and incredible, that the present applicant also ill-treated and harassed Preeti, there is no other material which is brought to my notice to even *prima facie* connect the applicant to the crime.

7] The trial is not an empty ritual. If the conscious of the court is satisfied that even if the material on record translates into admissible evidence there would be no possibility of conviction it would be absolutely unwarranted to force the accused to undergo the rigmarole and trauma of the trial.

8] The conscious of this court is satisfied that the applicant has made out a case for discharge.

9] The orders impugned are set aside.

10] The applicant – Ku. Dhananshri d/o Babusingh Rathod is discharged from offence punishable under section 498-A and 323 read with section 34 of the IPC registered vide Crime 155/2015.

11] The application is allowed in the aforesaid terms.

JUDGE