

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

CRIMINAL APPLICATION NO. 514 OF 2019.

1. Syed Bashrat Ali Hussain
Age 35 years, Occ. Agril.
R/o. Hanuman Nagar, Ambajogai,
Tq. Ambajogai, Dist. Beed.
..(Rejected as per order dated
26.02.2019).
2. Aktar Begum Syed Hussain Patel,
Age 55 years, Occ. Household,
R/o. Hanuman Nagar, Ambajogai,
Tq. Ambajogai, Dist. Beed. ... **Applicants.**

VERSUS.

1. The State of Maharashtra,
Through Police Inspector,
Majalgaon City Police Station,
Tq. Majalgaon, Dist. Beed.
2. Syed Meharaj Bashrat Ali Patel,
Age 26 years, Occu. Household,
R/o. Bypass Road, Opposite
Asahar Complex, Majalgaon,
Tq. Majalgaon, Dist. Beed. ... **Respondents.**

...

Mr. Bhagwan S. Kudale, Advocate for Applicants.

Mr. S.B. Yawalkar, A.P.P. for respondents No. 1.

Mr. S.N. Suryawanshi, Advocate for respondent No. 2 (appointed).

**CORAM : T.V. NALAWADE &
MANGESH S. PATIL, JJ.**

DATE : 05.04.2019

JUDGMENT (PER MANGESH S. PATIL, J.) :

Heard.

2. Rule. The rule is made returnable forthwith. The learned APP

waives service for respondents No. 1. Learned advocate Mr. S.N. Suryawanshi waives service for respondent No. 2. With the consent of both the sides the matter is heard finally at the stage of admission.

3. The applicants are seeking quashment of the F.I.R. in Crime No. 164/2016 registered with Majalgaon Police Station for the offences punishable under section 498A, 323, 504, 506 read with section 34 of the Indian Penal Code and the consequential charge-sheet filed pursuant thereto which is pending as Reg. Criminal Case No. 296/2016 in the Court of Judicial Magistrate First Class, Majalgaon.

4. On the first date i.e. 26.02.2019 this Court has already rejected the application qua the applicant No. 1 and it is only the applicant No. 2 whose request is now to be considered.

5. The F.I.R. was lodged by the respondent No. 2 alleging that her marriage was solemnized with applicant No. 1 on 27.03.2011. She has begotten couple of children out of the wedlock. However, her husband i.e. applicant No. 1 and other in laws started illtreating her by demanding money. She was being beaten and was being kept starved. Even an attempt was made to set her on fire and therefore she went back to her parental home with her children. She then alleged that on 26.05.2016 her husband along with some gundas had been to the house of her parents. They assaulted her and her paternal side relations. She lodged the F.I.R. on 17.08.2016 and the offence was registered.

6. On 18.08.2016 the respondent No. 2 recorded her additional statement and further alleged that her husband, her mother-in-law i.e. applicant No. 2 and other relations from the matrimonial home were demanding Rs. 1 lakh from her and she was being illtreated on that count.

7. The learned advocate for the applicant No. 2 submits that accepting the allegations in the F.I.R. and the supplementary statement at their face value, ingredients for constituting the offences cannot be made out as against the applicant No. 2 who is the mother in law of the respondent No. 2. Omnibus and vague statements have been made against her. No specific and precise overt act is attributed to her. It would be a misuse of process of Court if she is made to face the trial based on such superficial allegations. Following the principles laid down in the case of **State of Haryana and Ors V/s. Bhajan Lal and Ors.; AIR 1992 Supreme Court 604** the applicant No. 2 is entitled to seek quashment of F.I.R. and charge-sheet.

8. The learned APP and the learned advocate for respondent No. 2 submit that at this juncture minute scrutiny of the material may not be resorted to. The Investigating Officer has been able to collect material to substantiate and corroborate the allegations in the F.I.R. The material needs to be tested which can happen only during the trial and the application may be rejected.

9. We have carefully considered the papers. It is trite that F.I.R. is not

supposed to be an encyclopedia and it can never be, much less when it pertains to a matrimonial dispute culminating in commission of the offences punishable under section 498A of the Indian Penal Code since, the dispute usually comprises of several episodes stretching over long period of few years.

10. Bearing in mind this fact if one examines the statements of the witnesses, Shaikh Javed Shaikh Hujoormiya, who is the brother of respondent No. 2, Shaikh Hujoormiya Pashamiya, who is her father, her another brother Shaikh Javed, her mother Shaikh Shamim they have all specifically stated that both the applicants i.e. the husband and mother in law of respondent No.2 had come to their house and had demanded money. While referring to this episode they have in unison specifically stated that even the applicant No. 2 along with the applicant No. 1 had demanded money. If this be so, in our considered view, it cannot be said that the material collected during the course of investigation is only omnibus and vague and does not make out any offence against her. Therefore even the applicant No. 2 is not entitled to any relief.

11. The application is rejected.

12. The rule is discharged.

(MANGESH S. PATIL, J.)

(T.V. NALAWADE, J.)

mkd