

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

CRIMINAL APPLICATION NO. 17 OF 2019

- 1) Dipali w/o Jitendra Karkhanis,
Age 38 years, Occ. Agriculture,
R/o. Suryawanshi Towers, Rohit
Residency, Badekar Nagar,
Hadapsar, 2nd Floor, Flat No. 12,
Pune, Dist. Pune.
- 2) Rupali s/o Vijay Varade, Age 37
years, Occ. Service, R/o. 20/1,
Said Sadan Building, Plot No. 45,
Punyanagar, Tharakwadi, Pune. ... **Applicants.**

VERSUS.

1. The State of Maharashtra,
Through Public Prosecutor,
High Court of Bombay Bench
At Aurangabad.
2. The Investigation Officer,
Bhingar Camp Police Station,
Ahmednagar, Dist. Ahmednagar.
3. Yogita w/o Manoj Sangale,
Age Major, Occ. Household,
R/o. Alamgir Road, Sainagar,
Bhingar, Ahmednagar, Tq. &
Dist. Ahmednagar. ... **Respondents.**

...

Mr. D. R. Jayabhar., Advocate for Applicants.
Mr. P.G. Borade, A.P.P. for respondent No. 1 & 2 .
Mr. R. S. Kasar, Advocate for respondent No. 3.

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

DATE : 25th MARCH, 2019

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

Heard.

2. Rule. Rule is made returnable forthwith. Learned APP waives service of notice for respondents No. 1 & 2 and learned advocate Mr. Kasar waives service of notice for respondent No. 3. With the consent of both the sides the matter is heard finally at the stage of admission.

3. The applicants are praying for quashment of the Crime No. 20/2017 registered with Bhingar Camp Police Station Ahmednagar for the offences punishable under section 323, 406, 498A, 504, 506 read with section 34 of the Indian Penal Code. The respondent No. 3 lodged the F.I.R. on 01.01.2017 alleging that since after her marriage on 17.01.2016 her husband and the other in laws started demanding her money and on that count she was subjected to illtreatment. She also alleged that her Stridhan was also appropriated by her in laws. As against the applicants who are her married sisters-in-law it is alleged that even they were assaulting and abusing her. They were frequently insulting her and thus all the in laws including the applicants have committed the aforementioned offences.

4. When this Court after hearing both the sides expressed its disinclination to grant any relief to the applicant No. 2 Rupali, her learned advocate, on instructions, seeks leave to withdraw the application to her extent.

5. It has been time and again noticed by the Supreme Court in various cases like **Arnesh Kumar V/s. State of Bihar and Anr.** [AIR 2014 SC 2756], **Preeti Gupta and Anr. V/s. State of Jharkhand and Anr.** [(2010) 7 Supreme Court Cases 667], **Geeta Mahrotra & Anr V/s. State of U.P. & Anr.** [2013 (AIR) (SC) 181], etc. that there is usual tendency to rope in all the relations of the husband when a matrimonial dispute culminates in lodging of a F.I.R. under section 498A of the Indian Penal Code. Obviously, the Courts have to be vigilant in this respect so as to avoid any misuse of the process of law. In case of **Amit Kapoor Vs. Ramesh Chandra and another** [(2012) 8 SCC 460] various guidelines have been laid down as to how the approach of the Court in dealing with such matters should be. Bearing in mind the principles laid down in **Amit Kapoor (supra)**, a minute perusal of the F.I.R. reveals that only a vague and omnibus statement is made in respect of applicant Dipali. It has been vaguely alleged that apart from her husband, mother-in-law and the applicant No. 2-Rupali even Dipali was assaulting her and was insisting her to secure some employment and was teasing her. Even according to the F.I.R., the applicant No. 1 Dipali is the married sister of the husband and must have been residing separately. In the F.I.R. itself the respondent No. 2 has mentioned that Dipali is resident of some other place, other than the residence of her husband.

6. Now turning to the statements of brother, brother-in-law and parents of respondent No. 2, no specific and precise role is attributed to

applicant Dipali much less in either demanding money from the respondent No. 2 or subjecting her to any cruelty for that reason or for any other reason. The statements are equally vague and omnibus as is the case with the F.I.R.

7. For all the above reasons, accepting the allegations in the F.I.R. at their face value and even the statements of the witnesses who are from the parental side of respondent No. 2, the ingredients for constituting the offences can hardly be made out. The case of applicant Dipali thus falls in category 1 and 3 from the case of **State of Haryana and Ors V/s. Bhajan Lal and Ors., AIR 1992 Supreme Court 604** and therefore the application deserves to be allowed to her extent.

8. The application to the extent of applicant No. 1 Dipali is allowed.

9. The rule is made absolute in terms of prayer clause 'D' to her extent.

10. The application to the extent of applicant No. 2 Rupali is disposed of as withdrawn.

(MANGESH S. PATIL, J.)

(T.V. NALAWADE, J.)

mkd