

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

CRIMINAL APPLICATION NO. 217 OF 2019

1. Shivraj Nagorao Dhulshette,
Age: 36 years, Occu. Service,
R/o Sneha Nagar Govt. Quarters,
Near Govt. Engineering College,
Aurangabad, Tq. & Dist. Aurangabad.
2. Nagorao Rajaram Dhulshette,
Age: 70 years, Occu. Nil.,
R/o Shriram Nagar, Nanded,
Tq. & Dist. Nanded.
3. Shakuntala Nagorao Dhulshette,
Age: 65 years, Occu. Household,
R/o Shriram Nagar, Nanded,
Tq. & Dist. Nanded.
4. Sandeep Nagorao Dhulshette,
Age: 33 years, Occu. Education,
R/o Hanuman Gadh, Shriram Nagar,
Nanded, Tq. & Dist. Nanded.
5. Asha w/o Sandeep Dhulshette,
Age: 28 years, Occu. Household,
R/o Hanuman Gadh, Shriram Nagar,
Nanded, Tq. & Dist. Nanded.
(She is named as Neha in FIR)
6. Sangram Bandu Thote,
Age: 44 years, Occu: Service,
R/o Dhanore Phata, Tq. Khed,
Dist. Punel.

... Applicants

Versus

1. The State of Maharashtra,
Through Police Station,
Mukhed, Dist. Nanded.

2. Suman @ Sushma d/o Nagorao Dante @
Suman @ Sushma w/o Shivraj Dhulshette,
Age: 33 years, Occu. Business,
C/o Govind Nagorao Dante
R/o Pakhandewadi, Post. Jamb,
Tq. Mukhed, Dist. Nanded.

... Respondents

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Mr. Salunke Sudarshan J., Advocate for the Applicants.
Mr. S.B. Yawalkar, A.P.P. for Respondent no.1-State.
Mr. Aftab Patel, Advocate for Respondent No.2 (Appointed).

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**CORAM : T.V. NALAWADE &
MANGESH S. PATIL, JJ.**
DATE : 30.04.2019

JUDGMENT :- (Per: Mangesh S. Patil, J.)

Heard. Rule. The Rule is made returnable forthwith. Learned A.P.P. and the learned advocate for the respondent no.2 waive service. With the consent of both the sides the matter is heard finally at the stage of admission.

2. The applicants are the accused from Crime No. 347 of 2018 of Police Station Mukhed, District Nanded for the offences punishable under Section 498-A, 323, 506 read with Section 34 of the I.P.C., registered at the instance of the respondent no.2, seeking its quashment as well as that of the charge-sheet filed pursuant thereto, pending on the file of the concerned J.M.F.C. bearing R.C.C. no. 19 of 2019.

3. Shortly stated the prosecution case as can be discerned from the

F.I.R. and the charge-sheet is to the effect that after the marriage in the year 2012 between the applicant no.1 and the respondent no.2 she was treated well for first couple of years. Thereafter they started insisting her to bring money from her parents under the pretext that they had to spend the money to secure him a job. On that reason she was ill-treated. She informed her parents about such a demand. They along with other relations tried to convince the applicants but after about a month the ill-treatment resumed. She was being confined in a room and kept starving. On 09.04.2016 her husband assaulted her and drove her out of the house and since then she is at home of her parents.

4. The learned advocate for the applicants vehemently submitted that the applicants are being falsely implicated. Vague and omnibus allegations have been levelled. All relations are being roped in unnecessarily. There could be a matrimonial dispute but an attempt is being made to rope in all the relatives. It would be sheer abuse of the process of law if the applicants are made to face the charge based on such vague and omnibus allegations. The applicant no.1 has been residing in a Government quarter at Aurangabad whereas his parents i.e. the applicant nos.2 and 3 are residents of Nanded, the applicant no.4 is younger brother of the applicant no.1 and has been residing at Nanded with his wife-applicant no.5. The applicant no.6 is a distant relative residing at Pune.

5. The learned A.P.P. and the learned advocate for the respondent no.2 strongly oppose the application. They submit that already the charge-sheet has been filed which presupposes that there has been some material found by the Investigating Officer to *prima facie* implicate the applicants. Whether the respondent no.2 would be able to substantiate the charge is a matter for the trial Court to consider. At this juncture no inference can be drawn much less creating a doubt about veracity of the allegations and the application may be rejected.

6. When this Court expressed its disinclination to grant any relief to the applicant no.1, his learned advocate, on instructions, seeks leave to withdraw the application to his extent.

7. We have carefully gone through the papers. True it is that this is not a proceeding where the material collected by the Investigating Officer is to be scanned threadbare to ascertain its veracity or otherwise and that is a job better left for the trial Court to undertake. Obviously, there must have been some marital discord which has resulted in separation between the applicant no.1 and respondent no.2 and there must have been some reason therefor. However, one cannot lose sight of the fact that the F.I.R. indeed is vague and omnibus at least as regards the allegations against the rest of the applicants except the applicant no.1 albeit they all have been named therein, in an

omnibus and vague manner. It has been simply alleged that all the applicants were insisting her to bring money from her parents and had subjected her to cruelty. It is only against the applicant no.1 that she has alleged that he had assaulted her and driven her out of the house on 09.04.2016. Conspicuously, even there are no allegations against the parents in law also.

8. Coupled with this, the applicants have also produced an affidavit submitted by the respondent no.2 in lieu of her examination in chief in Petition No.A-88 of 2016 filed by the applicant no.1 against her in the Family Court at Nanded. Even in such deposition she has vaguely referred that she was being ill-treated by the applicant no.1, without attributing anything to the rest of the applicants. More importantly, during her cross-examination she specifically admitted that while her husband i.e. the applicant no.1 was posted at Osmanabad it was she alone who was co-habiting with him, although she volunteered and stated that even his mother used to intermittently visit them. She admitted that she had not met her mother in law for last three years next before her deposition recorded on 12.06.2017. Bearing in mind the fact that the marriage was solemnized in the year 2012, coupled with the fact that she had not met her mother in law i.e. the applicant no.3 for three years next before 2017 and when there are no specific and precise allegations against rest of the applicants, it would be a sheer abuse of process of the law if they are made to face the trial. Their case is duly covered by category nos.1, 3 and

7 of the **State of Haryana and Ors. V/s. Bhajan Lal and Ors.; AIR 1992 SUPREME COURT 604** and the application to the extent of applicant nos.2 to 6 deserves to be allowed.

9. In this regard, it is also important to note that the other applicants i.e. the applicant nos.4 to 6 are not even residing with the applicant no.1 as can be seen from their Aadhar Cards and Voter's Identity Cards. The parents of the applicants no.1 are also residing at Nanded and possess their separate ration card.

10. The application is allowed to the extent of applicant nos.2 to 6. Relief is granted to them in terms of prayer clause-B1 and B2.

11. The fees of the appointed counsel is quantified @ Rs.3000/- and it is to be paid through the High Court Legal Services Authority.

12. The application is disposed of as withdrawn to the extent of applicant no.1.

13. The rule is accordingly made absolute.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]