

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****CRIMINAL APPLICATION NO. 315 OF 2019**

1. Vijaymala W/o Vaman Dhole,
Age : 43 Years, Occ. Service,
R/o. Sonwadi, Post Kupati (Bk),
Taluka Kinwat, Dist. Nanded.

2. Punyabai W/o Digambar Kadam,
Age : 39 Years, Occ. Household
R/o. Sawargaon, Taluka Kinwat,
District Nanded.

... APPLICANTS

VERSUS

1. The State of Maharashtra,
(Through Islapur Police
Station Tq. Kinwat Dist. Nanded)

2. Shamrao S/o Vithoba Vagatkar,
Age : 54 Years, Occ. Agriculture,
R/o. Amdarwadi, Taluka
Bhokar, Dist. Nanded.

..... RESPONDENTS

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Advocate for the Applicants : Mr. Kahalekar Kuldip S.

A.P.P for Respondent-State : Ms. V.S. Chaudhary

Advocate for Respondent No.2 : Mr. N.R. Suryawanshi

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**CORAM :T.V. NALWADE AND
K.K. SONAWANE ,JJ.**

DATE : 3rd JUNE, 2019.

JUDGMENT(PER T.V. NALWADE, J] :-

1. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2. The proceeding is filed for relief of quashing of charge-sheet, in Sessions Case No. 102 of 2019 to the extent of the applicants. The case is pending in Session Court Nanded for the offence punishable under Sections 306, 498-A 323, 504 read with Section 34 of the Indian Penal Code.

3. Copy of the charge-sheet and copies of the papers of investigations are produced for perusal. The F.I.R is given by Shamrao, father of the deceased. The deceased was given in marriage in the year 2008 to brother of the present applicants. There was some dispute and for some time the deceased had lived with her parents. One criminal case was filed in the year 2013 for the offence of cruelty against the husband and the relatives and after that a settlement took place between them. After settlement the deceased had returned back to the matrimonial house and she resumed cohabitation. Even after the settlement the ill-treatment was not stopped.

4. The allegations are made that the husband and the relatives were harassing the deceased, they were assaulting her and they drove out her out of the matrimonial house as their demand to bring money from her parents was not met with. Many times attempt was made to convince the husband and relatives to behave well but they did not improve their conduct. On 25.05.2018 husband of the deceased namely Vishnudas

informed the first informant that the deceased was sick and she was admitted in the private hospital. The first informant went to the hospital and there the deceased disclosed that the husband, the present applicants and the parents of the husband were harassing her on aforesaid count and they were also asking her to give permission to the husband to marry second wife. As she did not give such consent the ill-treatment was given to her and due to that she had consumed poison. She died on 04.06.2018 and FIR was came to be given on 05.06.2018.

5. The submissions made show that present applicants are married sisters of the husband of the deceased and they were living at different places at the relevant time. The papers of the investigation do not show that on the day of incident these two ladies were seen in the village of the husband namely Sonwadi, Post Kupati (Bk) Taluka Kinwat. It can be said that the prosecution is only using so called aforesaid oral dying declaration which was given by the deceased. In that dying declaration the names of the present applicants were taken but the name of one Parsharam Ranba Dhole was also taken. The attention of this Court was brought to the supplementary statement of the first informant dated 26.06.2018 and it shows that in the supplementary statement he informed that due to some misunderstanding he had taken the name of Parshram Dhole and he had no grievance against Parshram Dhole. The submissions made show that charge sheet is not filed against Parshram

due to aforesaid supplementary statement of the first informant.

6. Copy of private complaint filed in the past against the husband and relatives is produced on record and that copy shows that in the past, in the year 2013 no allegations were made against the present applicants by the deceased. In view of the aforesaid circumstances this Court holds that nothing can be achieved by asking the present applicants to face the trial for aforesaid offences. It will be abuse of the process of law to ask the applicants to face the trial for the aforesaid offences. In the result, following order :-

ORDER

- I] The application to the extent of applicants are allowed.
- II] Relief is granted in terms of prayer clause (B) only to the extent of present applicants.
- III] The rule is made absolute in those terms.

**[K.K. SONAWANE]
JUDGE**

**[T.V. NALAWADE]
JUDGE**

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