

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.336 OF 2019

1. Iliyas Hussain Mewati
Age : 32 years, Occu.: Labour
R/o: Dongergaon, Taluka Sillod,
Dist : Aurangabad.
 2. Hussain Khan Abdullah Khan Pathan,
Age : 57 years, Occu.: Labour
R/o: as above.
 3. Imran Khan Hussain Khan Pathan,
Age : 25 years, Occu.: Labour
R/o: as above.
 4. Sayrabi Hussain Khan Pathan,
Age : 47 years, Occu.: Household
R/o: as above.
 5. Humabee Imran Khan Pathan
Age : 22 years, Occu.: Household
R/o: as above.
 6. Najerabee Husain Khan Pathan
Age : 27 years, Occu.: Household
R/o: Maholi, Taluka Phulambari,
Dist. Aurangabad.
- ... Applicants

Vs.

1. The State of Maharashtra
Through the Police Sub- Inspector,
Police Station, Sillod (Rural),
Taluka Sillod District : Aurangabad.
 2. Aafrin Bano Abdul Karim Quraishi
Age : 22 years, Occu. : Labour
R/o : Dongergaon Taluka Sillod,
Dist : Aurangabad
- ... Non-Applicants

Advocate for Applicants : Shri A. N. Deshmukh Saud
APP for Respondent – State : Shri M. M. Nerlikar
Advocate for Respondent No. 2 : Shri Mohammad Naseer A. Shaikh

**CORAM : T.V. NALAWADE &
K.K. SONAWANE, JJ.**
DATE : 16TH JULY, 2019

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally with consent of learned counsels appearing for the parties.

2. The proceeding is filed for quashing of Charge sheet bearing No.33/16, registered with Police Station, Sillod (Rural), Taluka Sillod District Aurangabad for the offence punishable under Sections 354, 143, 504 and 506 of Indian Penal Code and also proceeding bearing RCC No. 104 of 2016 pending in the Court of Judicial Magistrate First Class, Sillod.

3. This Court has carefully gone through the FIR. The victim lady has made allegations against present applicant No. 1 - Ilyas Hussain Mewati, that he had taken her photograph about one year prior to the date of FIR showing that she was in his company. After that she got married. Allegations are made that after the marriage, Ilyas Hussain Mewati contacted her husband and showed those photographs to him. Due to that the husband divorced first informant. Due to this act of Ilyas Hussain Mewati, after divorce, when the first informant and her parents went to the house of Ilyas Hussain Mewati, the other applicants who were relatives of Ilyas Hussain Mewati picked up quarrel and gave threat of life to the informant, her father and her relatives who had gone to their house. She gave report on 21-1-2016.

4. The aforesaid allegations show that the main incident took place about one year prior to the date of FIR, that was the main offence and that was cognizable offence. Subsequent incident mentioned in the FIR took place in the month of December, 2015, when the first informant and his relatives went to the house of the accused and there so called second incident took place. The allegations made in second incident can make out only offence punishable under Sections 504 and 506 of IPC. As per Scheduled 1 of Cr.P.C., the offence punishable under Sections 504 and 506 of IPC is non-cognizable offence and they are bailable offences. In any case, the Police ought to have asked the first informant to see that she take proper steps in respect of second incident as the second incident could not have been registered as crime under Section 154 of Cr.P.C. These two incidents cannot be clubbed together and there is no such provision under Part B of Chapter XVII of Cr.P.C. There are other circumstances that FIR was given late against the petitioner and petitioner Nos. 2 to 6 when the incident took place in December, 2015. It can be said that charges can be framed against petitioner No. 1 for more offences, including offence punishable under Information and Technology Act, 2000, in view of the nature of the allegations, but it was not possible for the Police to register the crime and join applicant Nos. 2 to 6 in the same case in which Ilyas Hussain Mewati will be facing trial for offence punishable under section 354 and other offences. With all these circumstances, this Court holds that relief needs to be granted to applicant Nos. 2 to 6.

5. Learned Counsel for the applicants, on instructions, seeks leave to withdraw the proceedings in respect of applicant No. 1 - Ilyas Hussain Mewati. Leave granted. Application to his extent is disposed of as withdrawn.

ORDER

1. Criminal Application is partly allowed.
2. Criminal Application in respect of Applicant No. 1 - Ilyas Hussain Mewati stands dismissed as withdrawn.
3. Application in case of applicant Nos. 2 to 6 stands allowed in terms of prayer clause 'B'.
4. Rule is made absolute in those terms.

(K. K. SONAWANE, J.)

(T.V. NALAWADE, J.)