

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

CRIMINAL APPLICATION NO.446 OF 2019

1. Rahul S/o Vasantrao Patil,
Age 27 years, Occu. Service as
Assistant Manager at
Central Bank of India Branch
Branch – Nandura.
R/o Nandura, Dist. Buldhana.
2. Vasantrao S/o Shaligram Patil,
Age 64 years, Occu. Legal Practitioner,
R/o Trimbak Nagar,
Near Mahadeo Temple, Jamner,
Tq. Jamner, Dist. Jalgaon.
3. Meenakshi W/o Vasantrao Patil,
Age 55 years, Occu. Household,
R/o Trimbak Nagar,
Near Mahadeo Temple, Jamner,
Tq. Jamner, Dist. Jalgaon.
4. Vishal S/o Vasantrao Patil,
Age 23 years, Occu. Education,
R/o Trimbak Nagar,
Near Mahadeo Temple, Jamner,
Tq. Jamner, Dist. Jalgaon.
5. Padamkor W/o Raghunath Patil,
Age 76 years, Occu. Household,
R/o Trimbak Nagar,
Near Mahadeo Temple, Jamner,
Tq. Jamner, Dist. Jalgaon.
6. Shubhangi Amolsingh Rajput,
Age 35 years, Occu. Service as
Sales Tax Assistant,
R/o Khamgaon, Tq. Khamgaon,
Dist. Buldhana.

7. Ravindra S/o Raghunath Patil,
Age : 49 years,
R/o Pimpri, Tq. Pachora,
Dist. Jalgaon.
8. Gitabai W/o Ravindra Patil,
Age 45 years, Occu. Household,
R/o Pimpri, Tq. Pachora,
Dist. Jalgaon.

... **Applicants**

Versus

1. The State of Maharashtra,
Through the Police Inspector,
Police Station Pachora,
Tq. Pachora, Dist. Jalgaon.
2. Sow. Kiran W/o Rahul Patil,
Age 25 years, Occu. Household,
R/o Trimbak Nagar,
Near Mahadeo Temple, Jamner,
Tq. Jamner, Dist. Jalgaon,
At Present :
R/o Raul Galli, Nagardeola,
Tq. Pachora, Dist. Jalgaon.

... **Respondents**

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Mr. K.B.Jadhav, Advocate for Applicants.
Mr. M.M.Nerlikar, APP for Respondent-State.
Mr. S.S.Patil, Advocate for Respondent No.2 (appointed).

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

DATE : 27.03.2019

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

Heard. Rule. The Rule is made returnable forthwith. The learned APP waives service for the Respondent-State. The learned advocate Mr. S.S.Patil waives service for Respondent No.2. He is appointed to represent Respondent No.2 who has been duly served. With the consent of both the sides the matter is heard finally at the stage of admission.

2. The applicants are the husband and his relations and are accused of committing Crime No.173 of 2018 on the basis of FIR lodged by Respondent No.2 with Pachora Police Station, District Jalgaon for the offences punishable under Section 406, 498-A, 323, 504, 506 read with Section 34 of IPC.

3. In the FIR dated 30.12.2018 Respondent No.2 alleged that her marriage was solemnized on 05.03.2018. However her husband and mother-in-law subjected her to cruelty on account of their demand for money. The rest of the applicants were residing in the same house while she was cohabiting in the

matrimonial home. Her sister-in-law instigated her husband and on that count all the applicants were casting aspersions on her character as well as the character of her mother and sister-in-law. There was a persistent demand for money. She was threatened that she would be allowed to co-habit only if, money was paid. In July 2018 she was sent to her parental home but her mother-in-law removed all her ornaments and asked her not to return. When she tried to resume co-habitation by approaching the applicants on 07.10.2018 she was not allowed to enter the house and since thereafter they even did not pick up her phone calls. On 02.12.2018 again she made an attempt to resume cohabitation and went to the applicant's house. But her husband and father-in-law hurled abuses and agreed to allow her to resume co-habitation within eight days but when she contacted her husband on 06.12.2018 he refused to talk to her and ultimately she lodged the FIR.

4. The learned advocate for the applicants, on instructions, seeks leave to withdraw the application to the extent of applicant Nos.1 to 3 when this Court

expressed its disinclination to grant any relief to them on merits.

5. So far as the rest of the applicants, their learned advocate submits that primarily the allegations and overt acts are attributable only to applicant Nos.1 to 3 who are the husband and his parents. Though the rest of the applicants have been named and referred to in the FIR, the allegations against them are omnibus and vague. No precise overt act is attributable to any of them either in demanding money or in subjecting her to cruelty. Therefore, going by the principles laid down in the case of ***State of Haryana Vs. Bhajan Lal ; AIR 1992 S.C. 604***, the case of the rest of the applicants is duly covered by category 1, 3 and 8 and the application may be allowed to their extent.

6. The learned APP and the learned advocate for Respondent No.2 took pains in painting out and to cull down the allegations against each of the applicants including applicant Nos.4 to 8. They would submit that the investigating machinery needs to be extended

sufficient opportunity to collect the material and doors cannot be shut at the threshold. Role is attributable to each of the applicants in the matter of demanding money and subjecting her to cruelty. The learned advocate for Respondent No.2 also cites a decision of the Division Bench of this Court in case of ***M/s Kailashben Mahendrabhai Patel and others Vs. State of Maharashtra and another*** in ***Criminal Application No.4015 of 2014 dated 05.05.2017*** and submits that the same course should be followed as was followed in this decision wherein a similar request of even the relations of the husband was rejected.

7. We have carefully considered the rival submissions, the FIR and the decision of the Division Bench in case of M/s Kailashben (supra). We are merely called upon to consider the case of the applicant Nos.4 to 8. Applicant No.4 is the brother of the husband. Applicant No.5 is the grand father. Applicant No.6 is the married sister. Applicant No.7 is the maternal uncle and applicant No.8 is the wife of the

maternal uncle of the husband. As far as applicant Nos.7 and 8 are concerned, they are resident of village Pimpri, Taluka Pachora whereas the husband and his parents are residents of Jamner and the husband is in the employment of a bank at Nandura, District Buldhana. Applicant No.6 sister is resident of Khamgaon. The marriage had taken place on 05.03.2018 and the FIR has been lodged on 30.12.2018. It is thus apparent that Respondent No.2 had put in barely 10 months of marriage. Several allegations about demand for money and harassment on that count have been levelled during this short duration. Few episodes have been mentioned as to the manner in which money was demanded and she was ill-treated on that count.

8. The first episode is referred to at the time of *Satyanarayan Pooja* after the marriage wherein the sister of the husband that is applicant No.6 is stated to have exhorted her husband and on that count she was being taunted by suspecting her character. As far as applicant No.4 who is the brother of the husband, it is

alleged that at the instance of their mother her husband and applicant No.4 started demanding her money. Again there is a reference to an episode dated 04.04.2018 when she went to the house of the applicants to resume cohabitation and from then onwards till July 2018 she was subjected to ill-treatment by husband and his parents for money. It is alleged that during that period even applicant No.6 had instigated the husband on telephone. Besides there are some episodes stated to be of July 2018, October 2018, November 2018 and December 2018. In respect of each such episodes, apart from Respondent No.2, there are few witnesses like Mahendrasingh Patil, Gangabai Rajput to corroborate her version. However, as can be seen, the allegations as against Respondent Nos.4 to 8 are vague and omnibus. Unlike applicant Nos.1 to 3 neither the FIR nor these witnesses attribute specific overt acts to them in demanding money or subjecting her to cruelty. Bearing in mind the usual tendency noticed by the Supreme Court in several cases that in disputes leading to filing of a complaint under Section

498-A of the IPC there is usual tendency to implicate all the relations of the husband, in our considered view, the matter in hand, presents yet another instance of a similar kind. The allegations against applicant Nos.4 to 8 being vague and omnibus and accepting them at their face value do not make out necessary ingredients for the offences alleged. Their case is duly covered by category 1, 3 and 8 of *Bhajan Lal's* case. The application to the extent of applicant Nos.4 to 8 is allowed.

9. The rule is made absolute in terms of prayer clause-B to their extent. The application to the extent of applicant Nos.1 to 3 is disposed of as withdrawn.

10. The fees of the learned advocate Mr. S.S.Patil appointed to represent Respondent No.2 is quantified at Rs.3,000/- and shall be paid by the High Court Legal Services Authority.

(MANGESH S. PATIL, J.)

(T.V.NALAWADE, J.)

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