

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

CRIMINAL APPLICATION NO. 662 OF 2019

1. Babasaheb Dattatraya Solunke,
Age; 61 years, Occ; Pensioner,
2. Rukhmini w/o Babasaheb Solunke,
Age; 55 years, Occ; Household,

Both resident of Shivsamadhan Colony,
Vitkheda, Paithan Road, Aurangabad.
3. Rohini w/o Somnath Nalawade,
Age; 30 years, Occ; Household,
4. Somnath Raosaheb Nalawade,
Age; 36 years, Occ; Service,

Applicant Nos. 3 & 4 both resident of
101, Mansarovar Ganga Jamuna Complex,
Pleasant Park, Mira Road (East),
Thane – 401107.

APPLICANTS

(Original Accused)

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Satara Police Station, Aurangabad.
2. Shubhada w/o Yogesh Salunke,
Age; 27 years, Occ; Nil,
Resident of Nilkanath Plaza,
Golegaonkar Colony, Railway Station
Road, Bansilal Nagar, Aurangabad.

RESPONDENTS

(Original Complainant)

.....

Mr. D.M. Pingale, Advocate for Applicants
Mrs. D.S. Jape, APP for Respondent/State
Mr. J.V. Deshpande and Mr. S.N. Dudhate, Advocate
for Respondent No. 2

.....

CORAM : T.V. NALAWADE, &
M.G. SEWLIKAR JJ.

DATE : 10th DECEMBER, 2019

JUDGMENT : (Per M.G. SEWLIKAR, J]

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

2. This is an application under Section 482
of the Code of Criminal Procedure, 1973, for
quashing of the First Information Report (In short
'F.I.R.') lodged by respondent No. 2 bearing No.
539 of 2018 dated 17.12.2018, registered at Satara
Police Station, Aurangabad, for the offences
punishable under Sections 498-A, 323, 504, 506 r/w
Section 34 of the Indian Penal Code (In short
'I.P.C.').

3. Facts giving rise to filing of this

application are that respondent No. 2-the informant married one Yogesh Babasaheb Solunke on 30.4.2016. She was maintained well for some days after marriage. Thereafter, applicant No. 1 who is father-in-law of respondent No. 2-the informant, applicant No. 2 who is mother-in-law of respondent No. 2-the informant, applicant No. 3 who is sister of husband of respondent No. 2-the informant and applicant No. 4 who is husband of applicant No. 3 started ill-treating her and used to pass surcastic remarks at her. The gold articles gifted to her by her father were forcibly taken by applicant Nos. 2 and 3. They used to put her on starvation and used to say that she should bring money from her father to enable the said Yogesh to purchase house at Mumbai. The father of respondent No. 2-the informant gave money to the husband of respondent No.2. Thereafter, respondent No. 2-the informant and the said Yogesh started living in the rented premises at Mumbai. Thereafter, the said Yogesh started saying to the respondent No. 2-the informant that she should ask her father to transfer an agricultural land in the name of

Yogesh. She was driven out of the house on 20.10.2016. Thereafter, the F.I.R. came to be lodged by respondent No. 2-the informant, on the basis of which the crime for the above stated offences has been registered against applicants.

4. Heard Mr. D.M. Pingale, learned counsel for Applicants, Mrs. D.S. Jape, learned A.P.P. for Respondent/State and Mr. J.V. Deshpande and Mr. S.N. Dudhate, learned counsel for Respondent No. 2-the informant.

5. During the pendency of the petition the charge-sheet was filed. Therefore, applicants were permitted to make necessary amendment in the application.

6. Learned counsel for the applicants submits on instructions that he is not pressing the application as regards applicant Nos. 1 and 2 and that he wants to withdraw the application to the extent of the said two applicants.

7. It is the settled principle of law that on the basis of uncontroverted allegations in the F.I.R., if no offence is made out, powers under Section 482 of the Code of Criminal Procedure can be invoked for quashing of the F.I.R. The continuation of the proceedings in such matter would amount to abuse of process of Court.

8. In the case at hand, Respondent No. 3, the sister of the husband of respondent No. 2-the informant and Respondent No. 4 sister's husband have been involved in this offence. Applicants have produced Adhar Card of respondent No. 4, who is the husband of respondent No. 3 (sister-in-law of respondent No. 2). The said Adhar Card shows that respondent No. 4 is the resident of Thane. Respondent No. 3 being wife of respondent No. 4 is expected to live at the place of respondent No. 4. In the case of Priti Gupta Vs. State of Jharkhand MANU/SC/0592/2010 (2020) 7 SCC 667, it has been observed by the Hon'ble Supreme Court that there is tendency of implicating the immediate relatives of the husband. In the case at hand, respondent

Nos. 3 and 4 are not residents of village, in which respondent No. 2 and her husband were living. The allegations against them are general in nature. No offence can be made out even if the allegations are accepted at their face value. In view of this, we are inclined to quash the F.I.R. to the extent of applicant Nos. 3 and 4, hence following order :

ORDER.

I. The application of Applicant Nos. 1 and 2 is disposed of as withdrawn.

II. The application of Applicant Nos. 3 and 4 is allowed.

III. Relief is granted to Applicant Nos. 3 & 4 in terms of prayer clause (C1).

IV. Rule is made absolute in those terms.

(M.G.SEWLIKAR)
JUDGE

(T.V.NALAWADE)
JUDGE

mahajansb/