

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

CRIMINAL APPLICATION NO.630 OF 2018

1. Rahul S/o Yadavrao Bhamre
Age 34 years, Occu. Private Service,
2. Yadavrao S/o Shivram Bhamre,
Age 70 years, Occu. Retd. Govt. Servant,
3. Pramila W/o Yadavrao Bhamre,
Age 60 years, Occu. Household,

Applicant Nos.1 to 3 R/o Sky Avenue Co-op.
Society, C-Wing, 1301, Sector 34,
Kamothe New Mumbai 410 209.

*(Application of Applicant Nos.1 to 3
dismissed as per order dated 06.04.2018).*

4. Suvarna D/o Yadavrao Bhamre,
Age 38 years, Occu. Advocate,
R/o Indradham Co-op. Society,
IInd Floor, Sector 12,
Kamothe, New Mumbai 410 209.
5. Sangeeta W/o Ashok Kedare,
Age 40 years, Occu. Household,
6. Ashok S/o Amrutrao Kedare,
Age 43 years, Occu. Govt. Service,

Both R/o Sector 9, Ulave,
New Mumbai 410 209.

7. Amrapali W/o Surendra Gaware,
Age 32 years, Occu. Private service,
R/o Blue Crest Tower, Flat No.601,
Sector 6, Karanjade, Panvel,
District Raigad.

... **Applicants**

Versus

1. The State of Maharashtra,
Through Police Inspector,
Sindkheda Police Station,
Tq. Sindkheda, District Dhule.
2. Ashwini W/o Rahul Bhamre,
Age 30 years, Occu. Service,
R/o Sindkheda, Tq. Sindkheda,
District Dhule.

... **Respondents**

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Mr. H.H.Padalkar, Advocate for Applicants.
Mr. S.J.Salgare, APP for Respondent-State.
Mr. S.P.Brahme, Advocate for Respondent No.2.

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

DATE : 10.04.2019

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.P.Brahme waives service for Respondent No.2. With the consent of both the sides the matter is heard finally at the stage of admission.

2. Respondent No.2 set criminal law in motion by lodging FIR on 07.01.2018 in Sindkheda Police Station,

District Dhule for the offence punishable under Section 498-A of the Indian Penal Code against her husband and his relations and the offence was registered.

3. Applicant No.1 is her husband, applicant Nos.2 and 3 are her parents-in-law, applicant Nos.4, 5 and 7 are her sister-in-laws whereas applicant No.6 is the husband of applicant No.5. They are seeking quashment of the crime by invoking powers of this Court under Section 482 of the Cr.P.C.

4. The FIR was lodged inter alia alleging that respondent No.2 was already working as a Sales Tax Inspector in Mumbai. Since applicant No.1 was also in Mumbai, the marriage between the two was solemnized on 16.05.2015. When she started cohabiting in the house of in-laws, all the applicants except applicant No.5 were residing together in the same house. Though applicant No.5 and her husband applicant No.6 were residing separately, their house was in the neighbourhood. Since inception she was mentally harassed by asserting that the applicants were not treated properly during the marriage.

Her husband used to assault her. She was made to perform household chores. Applicant Nos.5 and 6 used to frequent their house and instigate the other applicants against her. She continued to cohabit with a hope of better future.

5. She then alleged that once her husband declared her that he was having an affair with a girl. He also told her about he having shot her video in an objectionable condition and under the threat of making it viral asked her to bring an amount of Rs.9,00,000/- from her father. When she informed the other applicants about it, instead of questioning her husband they overlooked it and instead asked her to pay the money. She then alleged that when she had gone to her parental home and was detected with pregnancy, husband started suspecting her fidelity. She then alleged that even after she gave birth to a child the applicants visited her parental home but mentally ill-treated her by saying that proper arrangements for their stay were not made. When her husband and her father-in-law came to her parental home on 20.05.2016, her husband again demanded money and threatened of

making the clip viral. She then alleged that from 22.06.2016 none of the applicants had come to meet her at her parental home where she has been staying with her child. All her important educational documents have been detained by her husband who is not ready to return it. Attempts were made to resume the wed-lock by approaching the Women's Grievance Cell but it did not fructify.

6. The learned advocate for the applicants vehemently submitted that the allegations in the FIR are primarily against the husband. Rest of the applicants have been roped in to wreck vengeance. The allegations against the applicants are vague and omnibus. They have been falsely implicated being the relatives of the husband. It is unlikely that when the husband and parents are around the sister-in-laws, two of whom have been married, would take part in subjecting Respondent No.2 to cruelty. It would be a misuse of the process of law if they all are made to face the charge.

7. The learned APP and the learned advocate for

Respondent No.2 submit that inspite of being educated couple, the applicants have subjected Respondent No.2 to cruelty by demanding money. The husband has even mentally harassed her by threatening her of making a clip viral. It is unlikely that a married woman like respondent No.2 would make such allegations without any rhyme or reason. She had promptly approached the Women's Grievance Cell on 14.11.2017 and ultimately has lodged the FIR. No scanning of the material should be resorted to and the allegations can be allowed to be established which can take place during a full fledged trial alone.

8. It is necessary to note at the outset that when the matter was placed before this Court on 06.04.2018, the learned advocate for the applicants, on instructions, withdrew the matter to the extent of applicant Nos.1 to 3 that is the husband and parents-in-law of Respondent No.2. Therefore we need to scrutinize the case of rest of the applicants only.

9. As is pointed out by the learned advocates for the applicants, though the applicant Nos.4 to 7 have been

named in the FIR, there is no precise and specific allegation as to the manner in which they had participated in subjecting respondent no.2 to cruelty. It has been vaguely and in an omnibus manner alleged in the FIR that when respondent No.2 had approached them complaining about the threats given by her husband of making the clip viral, they had not intervened and merely told her to shell of the money. As regards applicant Nos.5 and 6 it is alleged that they used to intermittently come to her matrimonial house and used to instigate the other applicants to ill-treat her. Barring these allegations and a grievance that when all the applicants had come to her parental home after she gave birth to a child they had complained of the arrangements for stay, there is absolutely no other allegation which would bring in all the necessary ingredients for constituting the offences punishable under Section 498-A, 323, 504, 506 of the IPC.

10. The Supreme Court in catena of cases has noticed that in such matrimonial disputes attempts are made to rope in all the relations of the husband viz. **Preeti Gupta**

and another Vs. State of Jharkhand and another ; (2010) 7 Supreme Court Cases 667, Geeta Mehrotra and another Vs. State of U.P. and another ; 2013 AIR (SC) 181, Arnesh Kumar Vs. State of Bihar and another ; AIR 2014 SC 256 and Amit Kapoor Vs. Ramesh Chandra and another ; (2012) 8 SCC 460.

11. Bearing in mind these observations and taking into considerations the vague nature of the allegations which have been levelled against applicant Nos.4 to 7, in our considered view, it would be a sheer misuse of the process of law if they are made to face the charge. Their case squarely falls in Category 1, 3 and 7 of the case ***State of Haryana and Ors. Vs. Bhajan Lal and Ors. ; AIR 1992 Supreme Court 604.***

12. The application to the extent of applicant Nos.4 to 7 is allowed in terms of prayer clause 'C'. The rule is made absolute in those terms.

(MANGESH S. PATIL, J.)

(T.V.NALAWADE, J.)

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vmk/-