

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 899 OF 2019

1. Ashok s/o. Rambhau Pudale,
Aged 40 years, Occu. Agri.,
2. Satish s/o. Ashok Pudale,
Aged Major, Occu. Business,
3. Ganesh s/o. Ashok Pudale,
Aged Major, Occu. Business,
4. Manisha w/o. Ganesh Pudale,
Aged Major, Occu. Household,
5. Pournima Mahendra Dukare,
Aged 25 years, Occu. Education,

The applicants no. 1 to 5 are
R/o. Naldurg, Tq. Tuljapur,
Dist. Osmanabad.

6. Seema Deepak Bhokare,
Aged Major, Occu. Household,
R/o. Atpadi, Dist. Sangli.
7. Deepak Anant Bhokare,
Aged Major, Occu. Business,
R/o. Atpadi, Dist. Sangli.
8. Shubhangi Ramesh Karanje,
Aged Major, Occu. Household,
R/o. Shaniwar Peth,
Kolhapur, Dist. Kolhapur.

....Petitioners.

Versus

1. The State of Maharashtra,
Through the Police Station Officer,
Police Station, Naldurg,
Tq. Tuljapur, Dist. Osmanabad.
2. Archana w/o. Sachin Pudale,
Aged 33 years, Occu. Household,

R/o. Bhoi Galli, Naldurg,
Tq. Tuljapur, Dist. Osmanabad
Now at Putani Galli,
Behind Laxmi Talkies, Kalburgi,
Tq. Kalburgi, Dist. Gulbarga
(State of Karnataka)

....Respondents.

Mr. N.J. Patil, Advocate for applicants.

Mrs. V.N. Patil (Jadhav), APP for respondent No. 1/State.

Mr. Chaitanya Deshpande, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
V.K. JADHAV, JJ.**

DATED : 08/11/2019.

JUDGMENT : [PER T.V. NALAWADE, J.]

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

2) Present proceeding is filed for relief of quashing of F.I.R. No. 80/2018 registered with Naldurg Police Station, Tahsil Tuljapur, District Osmanabad for the offences punishable under sections 498-A, 323, 504 r/w. 34 of Indian Penal Code. The crime is registered on the basis of report given by respondent No. 2 Smt. Archana. Applicant No. 2 Satish is her husband and applicant No. 1 Ashok is father of Satish. Applicant No. 3 Ganesh is real brother of Satish. Applicant No. 4 Manisha is wife of Ganesh. Other applicants like applicant No. 5 is cousin sister on maternal side of husband of informant. Applicant Nos. 6 and 8 are real sisters of husband of the

first informant and applicant No. 7 is the husband of applicant No. 6. All the sisters of the husband were married prior to the date of cause of action.

3) The marriage between informant and applicant No. 2 took place on 9.12.2008. Allegations are made that from 2009 the husband, his parents, sisters and even daughters of the sisters started harassing the informant and they were instigating her husband to give illtreatment to her. It is contended that the married sisters were visiting her matrimonial house frequently and on those occasion, they were illtreating her and even giving beating to her.

4) It is contention of the informant that there was grievance that sufficient dowry was not given and proper articles like air conditioner, cooler, refrigerator were not given as gifts in the marriage. It is her contention that when her father died, nobody turned up to her parents house to pay visit and to console her relative like mother. It is contended that she gave birth to daughter on 12.2.2010, but no love was shown to that daughter and husband used to give beating to the daughter. It is contended that her uncle was required to spend for admitting her daughter in school.

5) Specific allegations are made against husband, father in law and brother in law that they were harassing her. Allegations are

made against Manisha that she was joining other accused. It is contended that on 22.9.2017 the husband asked her to give divorce and he gave threat that he will make false allegations against informant to defame her. It is contended that after that day he continued to ask her to give divorce by giving similar threat. It is her contention that the husband was making allegations that informant had affair with his real brother. It is contended that husband started saying that proposal of marriage of the informant was in respect of applicant No. 3 and not for him and there was affair between the informant and applicant No. 3. It is contended that, that way the accused started defaming her and ultimately she was required to leave the house as she became sick. It is contended that when she recovered she contacted applicant no. 1 and requested him to allow her to return to matrimonial house. It is contended that applicant No. 1 gave threat that applicant No. 2 would finish her if she returns to matrimonial house. It is contended that on 20.12.2017 with some mediators when she went to applicants' house, applicant No. 1 gave threat that he would consume poison if she enters his house. It is contended that she was not allowed even to collect her articles on that day and she was made to leave that place in the night time. It is contended that she returned to parent's house and waited there with hope that one day she will be taken to matrimonial house. It is contended that the applicants are not ready to take her to matrimonial house and so, she was required to approach police.

6) This Court has carefully gone through the record produced in respect of the residence of the applicants and nature of allegations made against them. The submissions and the record show that in the house where informant cohabited with Satish, only father of Satish and the family of his brother Ganesh were living. Though it can be said that applicant No. 4 Manisha was also living there, considering the nature of allegations made against informant, it can be said that she had not much role in the illtreatment. Other two sisters were living in there respective matrimonial houses in districts like Sangali and Kolhapur. Allegations as against them are very vague and it does not look probable that they were frequently coming to the matrimonial house of informant situated in Tuljapur. Thus, there is clear possibility of exaggeration and involvement of all the relatives of husband to pressurize the husband and others. This Court holds that it will be abuse of process of law if the applicant Nos. 4 to 8 are made to face trial of the case for aforesaid offences.

7) The learned counsel for applicant Nos. 1 to 3 submitted that he is not pressing the application in respect of applicant Nos. 1 to 3. So, the following order :-

ORDER

(I) Application of applicant Nos. 1 to 3 is disposed of as withdrawn.

(II) Application of applicant Nos. 4 to 8 is allowed. Relief is granted to them in terms of prayer clause 'B' and to that extent, rule is made absolute.

[V.K. JADHAV, J.]

[T.V. NALAWADE, J.]

SSC/