

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

CRIMINAL APPLICATION NO.927 OF 2019

1. Shri. Ashok S/o Ganpatrao Kapse,
Age 60 years, Occu. Agriculture,
R/o Pimprigaon, Tq. Haveli,
District Pune.
2. Sau. Rohini W/o Bhagwan Kalokhe,
Age 55 years, Occu : Household,
R/o Pritam Prakash Building, Bhosari,
Tq. & District Pune. ... **Applicants**

Versus

1. The State of Maharashtra.
2. Sau. Sonali Ajit Raikar,
Age 26 years, Occu. Household,
R/o Deogaon, Tq. Newasa,
District Ahmednagar. ... **Respondents**

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Mr. A.A.Nimbalkar, Advocate for Applicants.
Mr. S.B.Yawalkar, APP for Respondent-State.
Mr. S.B.Tarde, Advocate for Respondent No.2.

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

DATE : 26.04.2019

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

2. The applicants are seeking quashment of FIR No.I-804 of 2018 registered with Police Station Newasa for the offences punishable under Sections 498-A, 406, 323, 504, 506 read with Section 34 of the IPC, registered at the instance of Respondent No.2.

3. She lodged the FIR on 10.12.2018 alleging that her marriage was solemnized on 14.06.2015 but there was a matrimonial dispute. Her husband and in-laws were insisting her to bring money. Her husband was addicted to liquor and used to assault her and because of such marital discord she was staying with her parents. She further alleged that the present applicants were the mediators due to whose intervention the marriage was performed. They had assured to hold a meeting to settle the dispute amicably. Accordingly a meeting was held wherein the applicants were present and she resumed

cohabitation in matrimonial home but the ill-treatment resumed. She informed her parents about it and again her parents approached the applicants. Again a meeting was held and at the end of the meeting the applicants allegedly asked her to pay her husband Rs.25,00,000/- and told her that else he would not cohabit with her and they would be helpless. When her father questioned the applicants about such behaviour, they abused her father.

4. At the outset it is necessary to note that since the crime has been registered inter alia for the offence punishable under Section 498-A of the IPC we tried to ascertain if the applicants can be said to be related to the husband of respondent No.2. The FIR is conspicuously silent about it. A care has been taken while lodging the FIR to point out the relations of the other accused with respondent No.2. However the applicants are only referred to as the mediators. During the course of arguments, even her learned advocate could not point out as to in what manner the applicants could be said to be related to the husband of respondent No.2 which is a *sine qua non* for attracting the provision of Section 498-A of

the IPC. For this reason alone, in our considered view, the applicants cannot be made to face the investigation and a possible charge.

5. Besides, accepting the allegations in the FIR at their face value, no role has been attributed to the applicants in subjecting respondent No.2 to cruelty. Therefore it would be a sheer abuse of the process of law if they are made to face the investigation. The case of the applicants is squarely covered by Category 1, 3 and 7 of the case ***State of Haryana and Ors. Vs. Bhajan Lal and Ors. ; AIR 1992 Supreme Court 604.***

6. The application is allowed in terms of prayer clause 'B'. The rule is made absolute in those terms.

(MANGESH S. PATIL, J.)

(T.V.NALAWADE, J.)

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vmk/-