

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

CRIMINAL APPLICATION NO.866 OF 2018

1. Surekha W/o Kishor Parmeshware,
Age 29 years, Occu. Household,
R/o Plot No.15, Field of Shri. Bhagure,
Chetana Nagar, Harsul, Aurangabad.
 2. Kishor S/o Baban Parmeshware,
Age 33 years, Occu. Labourer,
R/o Plot No.15, Field of Shri. Bhagure,
Chetana Nagar, Harsul, Aurangabad.
 3. Kavita W/o Suresh Purabhe,
Age 24 years, Occu. Household,
R/o Gurudas Nagar, Bhokardan,
Tq. Bhokardan, Dist. Jalna.
 4. Suresh S/o Ananda Purabhe,
Age 28 years, Occu. Labourer,
R/o Gurudas Nagar, Bhokardan,
Tq. Bhokardan, Dist. Jalna.
 5. Parwatabai D/o Sandu Shikhare,
Age 55 years, Occu. Agriculturist,
R/o Masla (Bk), Tq. Sillod,
Dist. Aurangabad.
 6. Mansaram S/o Sandu Shikhare,
Age 50 years, Occu. Agriculturist,
R/o Masla (Bk), Tq. Sillod,
Dist. Aurangabad.
 7. Ganesh S/o Mansaram Shikhare,
Age 23 years, Occu. Agriculturist,
R/o Masla (Bk), Tq. Sillod,
Dist. Aurangabad.
- ... **Applicants**

Versus

1. The State of Maharashtra,
2. Meena W/o Bharat Shikhare,
Age 23 years, Occu. Household,
R/o Ambedkar Nagar, Lane No.11,
CIDCO, N-7, Aurangabad.
Tq. and Dist. Aurangabad. ... **Respondents**

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Mr. H.V.Tungar, Advocate for Applicants.
Mr. S.B.Yawalkar, APP for Respondent-State.
Mr. S.N.Gaikwad, Advocate for Respondent No.2.

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

DATE : 11.04.2019

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.N.Gaikwad 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 Crime No.I-81 of 2016 registered with Harsul Police Station,

District Aurangabad for the offences punishable under Sections 498-A, 343, 143, 147, 149, 504 of the Indian Penal Code as well as quashment of the charge-sheet filed pursuant thereto.

3. Respondent No.2 filed the FIR on 18.05.2016 inter alia alleging that she was married on 24.06.2013. She was maintained properly for first one and half year. However, thereafter her father-in-law and his sister instigated her husband pursuant to which he used to beat her. It is alleged that even applicant Nos.1 and 3 who are her sister-in-laws and applicant Nos.2 and 4 who are their husbands respectively used to quarrel with her. She then alleged that for three months prior to lodging of the report she had started residing with her husband at Chetana Nagar, Harsul and even applicant Nos.1 to 4 were residing with them. She then alleged that all the applicants had confined her in a room between 14.05.2016 and 17.05.2016 by assaulting her on account of demand for money for setting up a hotel. When her mother, brother and sister came to her house and rescued her the

applicants had even beaten them.

4. The learned advocate for the applicants vehemently submits that the FIR has been lodged with imaginary allegations. No incident has ever taken place. Respondent No.2 was never subjected to any ill-treatment muchless on account of any demand for money. Every attempt is made to implicate all the near and distant relations of the husband. Care has been taken by her to implicate everybody. It would be sheer misuse of the process of law if such FIR is made the basis to implicate the applicants and to make them face the trial.

5. The learned APP and the learned advocate for respondent No.2 submit that the very fact that the charge-sheet has been filed is suggestive of the fact that there is some material in the allegations being levelled against each of the applicants. The trial needs to be proceeded enabling the prosecution to lead evidence to corroborate the charge.

6. We have carefully considered the FIR. As can be

seen, respondent No.2 has come out with a vague and omnibus allegation in the first portion of the FIR saying that she was ill-treated by all the applicants after one and half year of her marriage, without specifying date, time or place or even rough particulars. She has also not made it clear as to why and how she had not informed her parents about ill-treatment meted out to her earlier. Astonishingly, in spite of the fact that applicant Nos.1 and 3 are her married sister-in-law. She has stated that when she started residing with her husband at Chetna Nagar, Harsul even these applicant Nos.1 to 4 were residing with them. Ex-facie the version is unbelievable. Moreso when the Aadhar cards of these applicant Nos.1 to 4 prima facie show that they have been residing at a different place. For that matter applicant No.5 who happens to be the maternal aunt of her husband has been residing at village Mhasala Budruk, Taluka Sillod and applicant Nos.3 and 4 are residing at village Alapur, Taluka Bhokardan, District Jalna.

7. True it is that applicant Nos.1 and 2 are residents of

Chetana Nagar, Harsul and respondent No.2 has been alleging that she along with her husband was also staying at Chetna Nagar, Harsul for three months prior to the final episode during which she was allegedly confined. It is not clear as to where and how she along with her husband were staying in Chetana Nagar, Harsul. To our considered mind, it seems highly improbable and therefore, unbelievable that all these applicant Nos.1 to 5 could have had some opportunity to either demand money to Respondent No.2 or to subject her to cruelty for that reason.

8. Besides, a bare look at the FIR reveals that the allegations as against applicant Nos.1 to 5 are certainly omnibus and vague. No particulars can be found. It would be a sheer abuse of the process of law if they are made to face the trial based on such bald allegations.

9. True it is that there are few witnesses who are neighbourers namely Sunil Vitthal More, Kanchan Rajendra Jadhav and Prabhakar Ramesh Borde. But they have all stated that it is only after hearing some hue and

cry on 17.05.2016 when they had gone to the house of respondent No.2 it was she who had told them about all the applicants having confined her to a room and having assaulted her mother, brother and sister. Prima facie the version of these witnesses is hear say.

10. Perusal of the statement of mother of respondent No.2 reveals that the husband of respondent No.2 was asking her to come down to Aurangabad by speaking to her on phone for three days prior to 17.05.2016. Without intending to scan the statement thread bare, the version seems to be doubtful. If at all respondent No.2 was confined to a room by all the applicants and the husband, one cannot comprehend as to why the husband himself would make a phone call to the mother-in-law frequently for three days.

11. Taking into account all these aspect, in our considered view, the case of the applicant Nos.1 to 5 is squarely covered by Category 1, 3 and 7 of ***State of Haryana and others Vs. Bhajan Lal and others ; AIR 1992 Supreme Court 604*** and the FIR as well as the

charge-sheet deserves to be quashed to their extent.

12. At this juncture, the learned advocate for applicant Nos.6 and 7, on instructions, seeks leave to withdraw the application to their extent.

13. The Criminal Application to the extent of applicant Nos.1 to 5 is allowed.

14. The rule is made absolute in terms of prayer clause 'B' to their extent.

15. The application to the extent of applicant Nos.6 and 7 is disposed of as withdrawn.

(MANGESH S. PATIL, J.)

(T.V.NALAWADE, J.)

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vmk/-