

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

CRIMINAL APPLICATION NO. 952 OF 2018

1. Pravin S/o Kishor Chaudhary,
Age: 38 years, Occ. Service,
R/o. 302, 3rd Floor, Deep Apartment,
Near Jain Mandir Ground, Koliwada,
Mumbra, Tq. Kalyan, Dist. Thane.
2. Bebibai W/o Kishor Chaudhary,
Age: 65 years, Occ. Household,
R/o. 302, 3rd Floor, Deep Apartment,
Near Jain Mandir Ground, Koliwada,
Mumbra, Tq. Kalyan, Dist. Thane.
3. Vinod S/o Kishor Chaudhary,
Age: 41 years, Occu. Service,
R/o. Gurukunj Colony, Betukipada,
Kalyan (West), Kalyan, Dist. Thane.
4. Seema W/o Vinod Chaudhary,
Age: 32 years, Occu. Household,
R/o. Gurukunj Colony, Betukipada,
Kalyan (West), Kalyan, Dist. Thane.
5. Pavan S/o Kishor Chaudhary,
Age: 38 years, Occ. Service,
R/o. 302, 3rd Floor, Deep Apartment,
Near Jain Mandir Ground, Koliwada,
Mumbra, Tq. Kalyan, Dist. Thane.
6. Sau. Ashwani W/o Pavan Chaudhary,
Age: 32 years, Occ. Household,
R/o. 302, 3rd Floor, Deep Apartment,
Near Jain Mandir Ground, Koliwada,
Mumbra, Tq. Kalyan, Dist. Thane.

... Applicants

Versus

1. The State of Maharashtra,

Through, Songir Police Station,
Dist. Dhule.

2. Sau. Pooja Pravin Chaudhary,
Age: 28 years, Occ. Household,
R/o. C/o: Pandit Onkar Chaudhary,
Chaudhary Lane, Songir,
Tq. & Dist. Dhule.

... Respondents

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Mr. Shaikh Sammer Ahmed Saifuddin, Advocate for the Applicants.

Mr. P.G. Borade, A.P.P. for Respondent no.1-State.

Mr. B.R. Warama, Advocate for Respondent No.2.

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

DATE : 25.04.2019

JUDGMENT :- (Per: Mangesh S. Patil, J.)

Heard. Rule. The Rule is made returnable forthwith. The learned A.P.P. waives service for the respondent no.1. Learned advocate Mr. B.R. Warama waives service for the respondent no.2. With the consent of both the sides the matter is heard finally at the stage of admission.

2. By way of this proceeding under Section 482 of the Code of Criminal Procedure the husband of the respondent no.2 and his relatives are seeking quashment of the F.I.R. lodged by her on 11.12.2014 with Songir Police Station, District Dhule for the offences punishable under Section 498-A, 323, 504, 506 read with Section 109 of the Indian Penal Code.

3. The applicant no.2 is the mother of the applicant no.1 whereas applicant nos. 3 and 5 are his brothers, applicant nos. 4 and 6 are the wives of

applicant nos. 3 and 5 respectively. The respondent no.2 in her F.I.R. alleged that her marriage was solemnized on 18.02.2013. After her marriage she started cohabiting with her husband at the matrimonial home at Mumbra, her husband was addicted to liquor and used to assault her under the influence. He also used to abuse her in filthy language. When she tried to make a grievance with the other applicants against her husband, instead of convincing him to mend his ways they used to instigate him. She then alleged that she continued to cohabit hoping for a better future. Subsequently, she along with her husband started residing in a room rented from a slum, separate from the rest of the applicants. However, they used to frequent to her house and used to insist her to bring money from her parents for buying some better place for residence instead of the slum.

4. She then alleged that one day they all assaulted her, kept her starving and her husband abused her father on phone. Then her father came down to Mumbai and took her back when her husband abused and drove her father away. She then alleged that she made a complaint with the Women's Grievance Cell. Her husband promised to resume cohabitation but failed to take her back and thereafter the F.I.R. was lodged.

5. We have carefully perused the papers. After we expressed our disinclination to grant any relief to the applicant no.1 who is the husband of

the respondent no.2, his learned advocate, on instructions, seeks leave to withdraw the application to his extent.

6. A bare look at the F.I.R. shows that primarily the respondent no.2 has a grievance against her husband. Even according to the allegations in the F.I.R. only after few months of marriage she had started cohabiting with her husband in a rented premises elsewhere. The F.I.R. is absolutely sans any precise and specific allegation against the rest of the applicants. Only a vague and bald statement has been made that they were instigating the applicant no.1 in subjecting the respondent no.2 to cruelty and even they were demanding money. In our considered view, the allegations are so vague that it would be a sheer abuse of the process of law if the applicant nos. 2 to 6 are made to face the trial.

7. In this regard it is pertinent to note that there was indeed some marital discord and the respondent no.2 seems to have gone back to her parental home. However, they seem to have made an attempt to patch up the things by entering into a settlement duly executed on a stamp paper on 11.04.2016, a copy of which is annexed to the application (Exhibit-'C'). Pursuant to such settlement, even the respondent no.2 sought withdrawal of Criminal Misc. Application No.233 of 2014 filed by her against the applicant no.1 claiming maintenance under Section 125 of the Code of Criminal

Procedure, a copy of the application as well as the *pursis* filed by her are also tendered across the bar by the learned advocate for the applicants. Since this proceeding and settlement was arrived at in the month of May-2016, it would be still inappropriate to allow the applicant nos. 2 to 6 to face the charge.

8. It is also important to note that even in the statements of her parents and other relatives recorded under Section 161 of the Code of Criminal Procedure they all have been vague while attributing anything to the applicant nos. 2 to 6.

9. Considering all these aspects, in our considered view, the case of the applicant nos. 2 to 6 is squarely covered by category nos. 1, 3 and 7 from the case of **State of Haryana and Ors. V/s. Bhajan Lal and Ors.; AIR 1992 SUPREME COURT 604.**

10. The Criminal Application to the extent of applicant nos. 2 to 6 is allowed in terms of prayer clause 'B' and 'C'. The Rule is made absolute in those terms to their extent.

11. The Criminal applicant of the applicant no.1 is disposed of as withdrawn. The Rule is discharged to his extent.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]