

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

CRIMINAL APPLICATION NO. 980 OF 2018

1. Mohini W/o. Someshwar Aher,
Age:28 Years, Occu.- Service,
R/o.: B-1402, Giriraj Horizon, Sector-20,
Kharghar, New Mumbai – 410210.
2. Someshwar S/o. Sahebrao Aher,
Age:30Years, Occ.- Service,
R/o.: B-1402, Giriraj Horizon, Sector-20,
Kharghar, New Mumbai – 410210.
3. Mahesh S/o. Dilip Durafe,
Age:33 Years, Occ.- Service,
R/o. F-101, Udyog Idrakamal Apartment,
Near M.I.T. College, Beed by Pass Road,
Aurangabad.
4. Vaibhavi W/o. Mahesh Durafe,
Age:32Years, Occ.-Service,
R/o. F-101, Udyog Idrakamal Apartment,
Near M.I.T. College, Beed by Pass Road,
Aurangabad.
5. Dilip S/o. Bapurao Durafe,
Age:65 Years, Occ.-Nil.
6. Anuradha W/o. Dilip Durafe,
Age:56 Years, Occ.- Household,
[Applicant No. 5 & 6 R/o.
R/o. F-101, Udyog Idrakamal Apartment,
Near M.I.T. College, Beed by Pass Road,
Aurangabad.

... Applicants

Versus

1. State of Maharashtra,
Through Investigation Officer,
CIDCO Police Station,

Aurangabad (City)
Tq. & Dist. Aurangabad.

2. Dipali W/o Mayur Durafe,
Age 35 years, Occ. Household,
R/o. J-7, Vijayshri Colony, N-5,
CIDCO, Aurangabad.

... **Respondents**

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Mr. N.B. Narwade, Advocate for the Applicants.

Mr. S.J. Salgare, A.P.P. for respondent no.1-State.

Mr. M.R. Jadhav, Advocate and Mr. S.S. Jaiswal Advocate for Respondent No.2
absent.

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

DATE : 08.04.2019

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

Heard. Rule. Rule is made returnable forthwith. Learned A.P.P. waives service for the respondent. Learned advocate for the respondent no.2 Mr. M.R. Jadhav and Mr. S.S. Jaiswal are absent. At the request of both the sides the matter is heard finally at the stage of admission.

2. The applicants are seeking quashment of Crime No.140 of 2017 registered with CIDCO Police Station, Aurangabad lodged by the respondent no.2. After hearing both the sides when this Court expressed its disinclination to grant any relief to the applicant nos. 5 and 6 who are the parents in law of the respondent no.2, their learned advocate on instructions seeks leave to withdraw the application to their extent.

3. The respondent no.2 lodged the F.I.R. on 21.02.2017 alleging that she was made to marry under the pretext and by deceiving her by saying that her husband Mayur was in a permanent employment as an Assistant Engineer with M.S.E.B. and was posted at its office at Supa. She was shown his Identity Card, Engineering Degree and salary statement. However soon after she starting cohabiting in the matrimonial home, she was taunted and subjected to physical and mental ill-treatment. Her gold ornaments were snatched. Thereafter her husband under the pretext that he wanted to get his transfer to Sangli cancelled but will have to pay some money therefor induced her to pay him Rupees Five Lakh. When she realized that he was not going for work, her father inquired with M.S.E.B. Office and confirmed that her husband was not in the employment with M.S.E.B. Accordingly her father lodged a police complaint on 30.01.2017, whereupon her husband along with his friends came to her parental home and threatened her father on 31.01.2017, in respect of which a non-cognizable case was also registered. It was also realized that even the degree certificates of her husband were bogus.

4. Without intending to comment upon veracity or otherwise of the allegations which would be tested only during a full fledged trial, it is indeed unfortunate that the dispute in hand does not seem to be a matrimonial dispute alone. Going by the allegations, apparently the respondent no.2 seems to have been deceived to enter into the wedlock by resorting to forgery

and cheating.

5. So far as the role attributed to the applicant nos. 1 to 4 is concerned, admittedly applicant no.1 is a married sister in law of the respondent no.2 residing with her husband - applicant no.2 at Kharghar, New Mumbai. Whereas applicant no.3 who is her brother in law is married to applicant no.4. The contents of the F.I.R. show that the respondent no.2 in her elaborate and detailed F.I.R. has taken care to attribute knowledge to the applicant nos. 1 to 4 about the deception or fraud practised upon her in respect of the educational qualification and employment of her husband Mayur. However these allegations are only omnibus and vague. She has vaguely alleged that they all were knowing about it.

6. As far as the demand for money including for getting the transfer cancelled, the allegations have been attributed to the husband. She has alleged that only after she realized that she was deceived into solemnizing the marriage and when she inquired with the applicant nos. 1 to 4 about the realities that they all assured her that her husband was indeed in the employment of M.S.E.B. and thus they have satisfied themselves after looking into the joining letter. As far as applicant Mahesh is concerned it is alleged that when he was called to discuss the topic he had refused to turn up and had threatened the mediator Radhika Kydal who happens to be a co-accused.

7. In our considered view, the allegations against the applicant nos. 1 to 4 are indeed vague and omnibus and in all probability they have been roped in out of frustration of the informant - respondent no.2 who has been allegedly cheated and made to solemnize the marriage. To our mind it is highly improbable that even the applicant nos. 1 to 4 knowingly could have taken part in practising fraud. At least there is no material to show that they were aware that Mayur was not holding the qualification and was not having any employment and was merely pretending it.

8. Taking into account the overall conspectus of the matter, in our view, the case of the applicant nos. 1 to 4 stands covered by category nos. 1, 3 and 7 of the **State of Haryana and Ors. V/s. Bhajan Lal and Ors.; AIR 1992 SUPREME COURT 604**. The application to the extent of applicant nos. 1 to 4 is allowed. The rule is made absolute in terms of prayer Clause 'B' to their extent.

9. Application to the extent of applicant nos. 5 and 6 is disposed of as withdrawn and to their extent the rule is discharged.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]