

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

**CRIMINAL APPLICATION NO. 1411 OF 2019
WITH
CRIMINAL APPLICATION NO. 2654 OF 2019**

1. Suyog s/o Sahebrao Borhade
Age 30 years, Occ. Service,
2. Alka w/o Sahebrao Borhade
Age 50 years, Occ. Household,
3. Sahebrao s/o Shamrao Borhade,
Age: 54 years, Occ. Service,
4. Harshada w/o Vishal Hingne
Age 28 years, Occ. Household

All r/o Devgaon Rangari,
Tq. Kannad, Dist. Aurangabad

... Applicants

Versus

1. The State of Maharashtra
Through its Police Inspector,
Vaijapur Police Station, Tq. Vaijapur,
2. Nilam w/o Suyog Borhade
Age 29 years, Occ. Service,
r/o c/o Regulla Sampat Reddy,
H.No. 4/2386, Chandrapal Nagar,
Station Road, Vaijapur,
Tq. Vaijapur, Dist. Aurangabad.

... Respondents

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Mr. N. D. Sonawane, Advocate for the applicants.
Mr. M. M. Nerlikar, APP for respondent No.1-State.
Mr. S. A. Jagtap, Advocate for respondent No.2.

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**CORAM : T.V. NALAWADE AND
R. G. AVACHAT, JJ.**

DATED : 4th SEPTEMBER, 2019

JUDGMENT (Per R. G. Avachat, J.) :-

1. By this application under Section 482 of the Code of Criminal Procedure, 1973, the applicants seek quashment of the FIR No.0396 of 2018 dated 12.10.2018 registered with Vaijapur Police Station, Vaijapur, for the offences punishable under Sections 498-A, 323, 420, 406, 465, 467, 468, 471 and 34 of Indian Penal Code and under Sections 3 and 4 of Dowry Prohibition Act, 1961 against the applicants and the consequential proceedings in Criminal Miscellaneous Application No.517 of 2018 pending before the Judicial Magistrate, First Class, Vaijapur.

2. Heard. Rule. Rule made returnable forthwith and heard finally by consent of the parties.

3. After hearing learned counsel for the applicants for some time, he came around to withdraw the applications so far as applicant No.1 is concerned.

4. Applicant Nos. 2 and 3 are the parents-in-law of the first informant, while the applicant No.4 is the sister-in-law.

5. The allegations in the FIR are as under:

The first informant (Sou. Nilam) got married with applicant No.1 in April-2011. It was the love marriage. The parents-in-law of the first informant had opposed to the said marriage. They were, therefore, not present when the marriage took place at Arya Samaj Karyalaya at Aurangabad. Both the first informant and her husband have been serving as teachers with Zilla Parishad school. In June-2011 both of them went to reside at the first informant's matrimonial home at Devgaon Rangari. Since, the parents-in-law were opposing to the marriage, they picked up quarrel with their son Suyog and asked him to desert the first informant. The parents-in-law (applicant Nos. 2 and 3) asked their son to leave their home. The first informant and her husband therefore started residing in a house at Adarsh Colony, Vaijapur.

6. It is further alleged in the FIR that, both the first informant and her husband would visit the house of applicant Nos. 2 and 3 at Devgaon Rangari on holidays. The applicant No.4 is a married sister-in-law of the first informant. She has, however, been deserted by her

husband. She has, therefore, started residing along with her parents at Devgaon Rangari. It is further alleged that, applicant Nos. 2 to 4 instigated the applicant No.1 to ill treat the first informant. They would suspect the first informant's fidelity. The applicant Nos. 2 to 4 would also ask her to fetch money from her father. Therefore, a sum of Rs.45,000/- was paid to the applicant No.1 in the year 2012. Thereafter, he (husband) started asking her to fetch more money for purchase of Car. He was again paid a sum of Rs.1,00,000/- in the year 2015. There are further allegations in the FIR that the first informant has grievance against her husband as he physically assaulted the first informant and asked her to give him divorce.

7. Close reading of the FIR would undoubtedly indicate that it was a love marriage between the first informant and her husband - applicant No.1. The parents-in-law were opposing to the said marriage. They were not present in the marriage. The couple have stayed only for a month at the house of the parents-in-law at Devgaon Rangari. Thereafter, both the first informant and her husband were residing at Vaijapur, whereas the applicant Nos. 2 to 4 were residing at Devgaon Rangari, Tq. Kannad. The role, as attributed to the applicant Nos. 2 to 4, pertains to the alleged ill-treatment as to when the first informant would visit their house on holidays.

8. Since the parents-in-law did not like their marriage, it was natural for them to ask their son and the first informant to leave their house. The allegations made against applicant Nos. 2 to 4 are vague and general in nature. No details have been given as to when did the first informant went to the house of these applicants and was subjected to ill treatment there. On the basis of vague and general allegations, if applicant Nos. 2 to 4 are made to stand trial, it would be an abuse of the process of the Court. The FIR and the consequential charge-sheet in Criminal Misc. Application No. 517 of 2018 before the learned Judicial Magistrate, First Class, Vaijapur needs to be set aside, so far as against applicant Nos. 2 to 4 are concerned. Hence, the order.

ORDER

- (i) Both the applications are hereby dismissed as withdrawn to the extent of applicant No.1.
- (ii) The FIR No.396 of 2018 dated 12.10.2018 registered with Vaijapur Police Station, Tq. Vaijapur for the offences punishable under Sections 498-A, 323, 420, 406, 465, 467, 468, 471 and 34 of Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act, 1961 and the charge-sheet dated 31.05.2019 bearing No.64 of 2019 in Criminal Misc. Application No. 517 of 2018 before the learned Judicial Magistrate, First Class, Vaijapur, are quashed and set aside so far as applicant Nos. 2 to 4 are concerned.

(iii) Rule is made absolute in above terms.

9. The Criminal applications are disposed of.

[R. G. AVACHAT, J.]

[T. V. NALAWADE, J.]

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