

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

CRIMINAL APPLICATION NO. 1694 OF 2019

1. Atul Suryakant Jadhav
Age: 39 years, Occu.: Service,
2. Alka Suryakant Jadhav
Age: 62 years, Occu.: Household,
3. Pawan Suryakant Jadhav
Age: 34 years, Occu.: Service,

All R/o Aware Row Housing,
Laxminagar, Bhingar,
Tq. and Dist. Ahmednagar.
4. Sheetal Shekhar Kamble
Age: 38 years, Occu.: Household,
R/o Harmes Heritage, Phase-2,
B/1, 4th Floor, Shastri Nagar, Pune
5. Chandrkant Ramchandra Bansode
Age: 71 years, Occu.: Retired,
R/o Ghar No.9, Sadar Bajar Camp,
Behind Jaihind Bekary, Bhingar,
Tq. and Dist. Ahmednagar
6. Pushpalata Suryakant Bansode
Age: 65 years, Occu.: Nil,
R/o Nagar Pathardi Road,
Sadar Bajar Bhingar, Ahmednagar
7. Satish Parshuram Sonawane
Age: 65 years, Occu.: Retired,
R/o Plot No. L-2-66, Phase-II,
Sai Housing Society, Near Surekha Nagar,
Hingane Mala, Hadapsar, Pune.

..APPLICANTS

VERSUS

1. State of Maharashtra
Through The Inspector
Tophkhana Police Station, Ahmednagar
2. Sampada Atul Jadhav
Age: 34 years, Occu.: Household,
R/o Malhari Ramchandra Bhingardive,
Datta Digambar Society, Near Nirmal Nagar,
Savedi, Ahmednagar, Tq. & Dist. Ahmednagar ..RESPONDENTS

....
Mrs. S.G. Sonawane, Advocate for applicants
Mr. V.S. Choudhary, A.P.P. for respondent – State
Mr. G.R. Syed, Advocate for respondent no.2
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**CORAM : T.V. NALAWADE AND
R.G. AVACHAT, JJ.
DATED : 04th SEPTEMBER, 2019**

ORAL JUDGMENT (PER: R.G. AVACHAT, J.) :

Rule. Rule made returnable forthwith. Heard finally with the consent of the learned Counsel for the parties.

2. This application under Section 482 of Code of Criminal Procedure has been filed for quashing of F.I.R. bearing C.R. No. I-49 of 2018 registered with Tophkhana Police Station, Ahmednagar for the offences punishable under Sections 498A, 323, 504, 506 of Indian Penal Code and also for quashing and setting aside the charge-sheet.

3. F.I.R. has been lodged by Respondent No.2. Marriage between Applicant No.1 and Respondent No.2 (first informant) took place in November, 2008. On marriage, first informant started residing alongwith her

husband – Applicant No.1 at her matrimonial home. Applicant No.2 is the first informant's mother-in-law. She was residing alongwith them. Applicant No.3 is the first informant's brother-in-law. He too was residing alongwith them. It is alleged in the F.I.R. that Applicant Nos. 1 to 3 started ill treating the first informant for the reason that she was not well in cooking. Applicant No.1 is alleged to have asked the first informant to bring Rs.50,000/- from her parents for purchase of motorbike. Applicant No.4 is the married sister-in-law of the first informant. Applicant No.5 is not related to the family of either of applicants and first informant. He is alleged to have advised the applicants for ill treating the first informant. Applicant No.6 is one of the relations of the applicants, residing nearby of matrimonial house of the first informant. She is alleged to have had instigated Applicant Nos. 1 to 3 to ill treat the first informant. Applicant No.7 is alleged to have assisted Applicant Nos. 1 to 3 for ill treating the first informant.

4. The allegations in the F.I.R. indicate that the applicants suspect the first informant's character. When the first informant delivered a baby boy in 2011, none of the in-laws came to visit her. After delivery, the first informant returned to her matrimonial home. Applicant Nos. 1 to 3 again started ill treating her. Applicant No.1 is addicted to alcohol. He ill treated the first informant physically and mentally as well.

5. After hearing learned Counsel for applicants for sometime, he came around to withdraw the application so far as Applicant Nos. 1 to 3 are concerned.

6. Perusal of F.I.R. would indicate that Applicant No.4 is a married sister-in-law of the first informant. She has been residing at Pune. No details have been given as to when she had come to her parent's home and in what manner she ill treated the first informant. Applicant No.5 is not of relations of the first informant and her in-laws. He is alleged to be an advisory of Applicant No.1. No details have also been given as to how Applicant No.5 advised Applicant Nos. 1 to 3 to ill treat the first informant. Applicant No.6 is not a relative of the first informant's husband. She resides away from the matrimonial home of the first informant. Applicant No.7 resides in Pune.

7. In the case of ***Taramani Parakh Vs. State of M.P. and Ors., 2015 DGLS(SC) 320***, Supreme Court has observed thus :-

“11. Law relating to quashing is well settled. If the allegations are absurd or do not make out any case or if it can be held that there is abuse of process of law, the proceedings can be quashed but if there is a triable case the Court does not go into reliability or otherwise of the version or the counter version. In matrimonial cases, the Courts have to be cautious when omnibus allegations are made particularly against relatives who are not generally concerned with the affairs of the couple.”

It has also been observed that process of Court cannot be permitted to be used for an oblique or ulterior motive.

8. In the case of ***Kans Raj Vs. State of Punjab & Ors., (2000) 5 SCC 207***, Supreme Court has been observed thus :-

“5. A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their over enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused as appears to have happened in the instant case.

The Court has, thus, to be careful in summoning distant relatives without there being specific material. Only the husband, his parents or at best close family members may be expected to demand dowry or to harass the wife but not distant relations, unless there is tangible material to support allegations made against such distant relations. Mere naming of distant relations is not enough to summon them in absence of any specific role and material to support such role.”

9. F.I.R. is conspicuously silent to give details or make specific allegations about Applicant Nos. 4 to 7. If Applicant Nos. 4 to 7 are made to face the trial based on the vague allegations in the F.I.R. against them, it

would be abuse of process of Court. We are, therefore, inclined to allow application as regards Applicant Nos 4 to 7 are concerned. Hence the following order :-

ORDER

- (I) Application of Applicant Nos. 1 to 3 stands disposed of as withdrawn.
- (II) Application of Applicant Nos. 4 to 7 is allowed in terms of prayer clause (B).
- (III) Rule is made partly absolute accordingly.

(R.G. AVACHAT, J.)

(T.V. NALAWADE, J.)

SSD