

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

CRIMINAL APPLICATION NO. 1784 OF 2018

1. Nilabai W/o Bhimraj Jarhad,
Age 72 years, Occ. Household
2. Anil S/o Bhimraj Jarhad,
Age 47 years, Occu. Service i.e.
Extension Officer, Integrated Child
Development Services (ICDS) Scheme,
Yeola, Dist. Nashik.
3. Savita W/o Anil Jarhad,
Age 35 years, Occ. Service i.e.
Assistant Teacher, Zilla Parishad
Primary School, Jurul, Tq. Vaijapur,
Dist. Aurangabad.
All R/o Vinayak Nagar, Vaijapur,
Tq. Vaijapur, Dist. Aurangabad.
4. Mukund S/o Pandurang Misal,
Age 26 years, Occ. Service i.e. Inspector
Blocert International Pvt. Ltd.,
5. Ku. Swati D/o Pandurang Misal,
Age 20 years, Occ. Education,
6. Gitanjali W/o Vijay Vir,
Age 38 years, Occ. Service i.e.
Assistant Teacher, Kendriya Prathmik
School, Apegaon, Tq. Paithan,
Dist. Aurangabad.
R/o Kavsan, Paithan, Tq. Paithan,
Dist. Aurangabad.
7. Nilanth S/o Bhimraj Jarhad,
Age 34 years, Occ. Service in
Zilla Parishad, Aurangabad.
R/o Kandoba Nagar, Shevgaon,
Tq. Shevgaon, Dist. Ahmednagar.

... **Applicants**

Versus

1. The State of Maharashtra,
Through Police Station Harsool,
Dist. Aurangabad.
2. Vaishali W/o Nilkanth Jarhad,
Age 29 years, Occ. Household,
C/o Balasaheb Gopal Bhandare,
R/o Mahalgaon, Tq. Vaijapur,
Dist. Aurangabad.

... Respondents

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Mr. Sachin S. Deshmukh, Advocate for the Applicants.
Mr. S.J. Salgare, A.P.P. for respondent no.1-State.
Mr. S.R. Sapkal, Advocate for Respondent No.2

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**CORAM : T.V. NALAWADE &
MANGESH S. PATIL, JJ.**
DATE : 11.03.2019

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

Leave is granted to amend the prayer clause to seek relief of quashment of the charge-sheet. Amendment be carried out forthwith.

2. Heard. Rule. Rule is made returnable forthwith. Learned A.P.P. waives service for respondent no.1. Learned advocate Mr. S.R. Sapkal waives service for respondent no.2.

3. The applicants are accused in Crime No. 118 of 2017 registered under Section 498-A, 323, 504, 506 read with Section 34 of the I.P.C. registered with Harsool Police Station, District Aurangabad and they are

seeking quashment of the crime and the charge-sheet.

4. The respondent no.2 who is wife of the applicant no.7 filed this F.I.R. on 25.09.2017 she was given in marriage on 23.05.2010. After the marriage she started co-habitation with him at his village Shevgaon. Rest of the applicants were staying with them. She was treated well for first six months. Thereafter she was subjected to harassment by saying that they were not suitably gifted at the time of the marriage. Somehow she continued to co-habit and could beget a son and a daughter but the ill-treatment did not cease. She narrated her plight to the parents and her brother. They convinced the applicants. Thereafter, the applicant no.7 got an employment in Zilla Parishad, Aurangabad and was posted at Paithan. Therefore the couple migrated to Paithan. Even her mother in law i.e. the applicant no.1 was staying with them. The applicant no.6 who is the sister of the applicant no.7 was also frequenting to their house. The applicant no.7 then started insisting her to bring money from her parents for purchasing a house and for that reason the applicant nos.1, 6 and 7 subjected her to harassment. They abused her physically and mentally tortured her. They also threatened to drive her out of the house. It was also alleged that on 10.06.2014 the applicant no.7 assaulted her, abused her and left her at her parent's house warning her to bring money if she wanted to resume co-habitation. It was further alleged that on 26.01.2015 with the intervention of a Member of the

Zilla Parishad she could resume co-habitation but was assaulted by the applicant no.7 within fifteen days of resumption of co-habitation. He was coming late after consuming liquor. Lastly, on 25.03.2017 he suggested her to commit suicide, abused her, thereafter her brother took her away with her children.

5. After hearing the arguments when this Court expressed its disinclination to grant any relief to the applicant no.7 who is the husband of respondent no.2, his learned advocate, on instructions, seeks leave to withdraw the application to his extent. Leave is granted.

6. The learned advocate for the applicants vehemently submits that as has been noticed by the Apex Court in several judgments including in the case of **Preeti Gupta and Anr. V/s. State of Jharkhand and Anr.; (2010) 7 Supreme Court Cases 667**, it is a matter of common knowledge that there has been an usual tendency to rope in all the relatives of the husband in cases of dowry demand. Accepting the allegations in the F.I.R. at their face value, there has been enormous delay in lodging it. The allegations against the rest of the applicants are omnibus and vague. Accepting the allegations at their face value, the offences charged against the applicants cannot be made out and it would be a sheer abuse of the process of the Court if the applicants are made to face the trial.

7. The learned A.P.P. and the learned advocate for the respondent no.2 strongly oppose the application. They submitted that it is pursuant to the investigation that a charge-sheet has been filed. There is a *prima facie* material revealing complicity of each of the applicants in commission of the crime. One cannot comprehend any reason as to why the respondent no.2 who has put in a long marital life and could beget couple of children would resort to such tactics.

8. We have carefully considered the rival submissions and perused the copy of the charge-sheet. A bare look at the F.I.R. would pose a reasonable mind with several doubts. The couple was married in the year 2010 and without there being any reference to the precise date or period, a vague allegation is made in the first paragraph that all the applicants were harassing her by saying that they were not appropriately gifted at the time of marriage. She has not even mentioned as to if such harassment was physical or mental. A vague word harassment (त्रास) has been used. In the last sentence a vague statement has been made that all the persons who have been named earlier i.e. the applicants had abused and had physically and mentally tortured her. In the next paragraph she has narrated an episode dated 10.06.2014 alleging that her husband had slapped and abused her and left her at the parents house warning her that he would allow her to resume co-

habitation only if she brought money. In the next paragraph again the allegations are only against the husband. In the last paragraph she stated that on 25.03.2017 he suggested her to commit suicide and a vague statement is made that even his sister i.e. the applicant no.6 abused her. In the concluding paragraph all the applicants have been named and an omnibus allegation has been made that they had demanded her money, abused her physically and mentally tortured her since six months after the marriage till the lodging of the F.I.R.

9. It is thus quite apparent that the allegations in the F.I.R. even if they are taken at their face value are quite vague and omnibus as far as the applicant nos.1 to 6 are concerned. For that matter even the statement of her parents Balasaheb G. Bhandare and Anita B. Bhandare are identical to what has been alleged in the F.I.R. They are equally vague and omnibus as far as the applicant nos.1 to 6 are concerned.

10. One need not delve much and it would be sufficient to refer to the decision in the case of **Preeti Gupta** (supra) and several other judgments of the Supreme Court that there is an usual tendency in a matrimonial dispute to rope in all the relatives of the husband. Taking note of the fact that the couple was married in the year 2010 and had begotten couple of children and the F.I.R. has been filed only in the year 2017 on the backdrop of the vague

and omnibus allegations in the F.I.R., the situation is squarely covered by categories 1, 3 and 7 from the case of **State of Haryana and Ors. V/s. Bhajan Lal and Ors.**; AIR 1992 SUPREME COURT 604. The F.I.R. and the charge-sheet are liable to be quashed to the extent of the applicant nos.1 to 6. The application is accordingly allowed in terms of prayer clause-A to the extent of applicant nos.1 to 6.

11. The application to the extent of applicant no.7 is disposed of as withdrawn.

12. The rule is made absolute in above terms.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]