

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

CRIMINAL APPLICATION NO. 2158 OF 2019

1. Mahesh s/o. Janardhan Gupile .. Applicants
Age. 28 years, Occ. Service,
2. Janardhan s/o. Eknath Gupile
Age. 62 years, Occ. Pensioner,
3. Bebi w/o. Janardhan Gupile
Age. 52 years, Occ. Service & Corporator,

All R/o. Plot No. 220, Vasalya Nagar Housing
Society, CIDCO (New), Nanded, Dist. Nanded.
4. Trupti Sangmesh Kalwale,
Age. 32 years, Occ. Housewife,
R/o. Veera Reddy Colony, Lingam Palli,
Hyderabad (Telangana).
5. Sangmesh s/o. Bharat Kalwale,
Age. 34 years, Occ. Service,
R/o. As above.
6. Sunil s/o. Subhanrao Ambulgekar,
Age. 55 years, Occ. Private Job,
R/o. Waghala, CIDCO, Nanded,
Dist. Nanded.
7. Sushilabai Ganpat Somware,
Age. 55 years, Occ. Household,
R/o. Vasalya Nagar, Plot No.144,
Cidco, Nanded, Dist. Nanded.

Versus

1. The State of Maharashtra .. Respondents
Through : Bhagyanagar Police Station,
Nanded, Dist. Nanded.
2. Seema w/o. Mahesh Gupile,
Age. 28 years, Occ. Housewife,
Age present R/o. Room No.2,
Son Building, Sneh Nagar,
Police Colony, Nanded,
Dist. Nanded.

Mr. Manish P Tripathi, Advocate for the applicant.
Mrs.D.S. Jape, APP for respondent/State.
Dr. S.G. Nandedkar, Advocate for respondent No.2.

**CORAM : T.V. NALAWADE &
S.M.GAVHANE,JJ.
DATED : 29.11.2019**

ORAL JUDGMENT : [PER : S.M. GAVHANE, J.] :-

. Rule. Rule made returnable forthwith and heard finally with the consent of learned Counsels appearing for the parties.

2. By this application under section 482 of the Code of Criminal Procedure, the applicants (accused Nos.1 to 7) against whom crime No.50 of 2019 has been registered in Bhagya Nagar Police Station, Nanded under sections 498-A, 323, 294, 504, 506 read with section 34 of the Indian Penal Code on 25.02.2019 on the report of the informant -

respondent No.2, have prayed to quash and set aside the said FIR against them.

3. After this Court expressed that this Court is not inclined to grant relief to applicant Nos. 1 to 3, learned Counsel Mr. Tripathi appearing for the applicants, on instructions, stated that applicant Nos. 1 to 3 are withdrawing the application and application may be disposed of as withdrawn to the extent of applicant Nos. 1 to 3.

4. Mr. Tripathi, learned Counsel for the applicants submitted that applicant Nos.1 to 3 are residing at Bhagyanagar, Nanded, where the informant was residing with them. Applicant No.4 is married sister-in-law of the informant who is residing with applicant No.5 at Hyderabad. Applicant No.6 is maternal uncle of applicant No.1 and applicant No.7 is the maternal aunt of applicant No.1 and both are residing separately and at different places from applicant Nos. 1 to 3. It is submitted that the allegations made against the applicants and particularly against applicant Nos. 4 to 7 in the FIR are vague. No offences alleged in the FIR are attracted against these applicants. Therefore, it is submitted that the FIR be quashed against these applicants.

5. Heard Mrs. D.S. Jape, learned APP and Dr. S.G. Nandedkar, learned Counsel for the informant - respondent No. 2. They submitted that the offences alleged in the FIR are attracted against the applicants and therefore it is not a fit case to quash and set aside the FIR.

6. We have carefully considered the submissions made by learned Counsel for the applicants, learned APP and learned Counsel for respondent No.2. Perused the documents produced by the applicants.

7. On perusal of the FIR, it appears that it has been lodged by the informant - respondent No.2 on 25.02.2019 and she was married to applicant No.1 on 08.05.2016. It further shows that applicant No.1 is her husband, applicant Nos.2 and 3 are her father-in-law and mother-in-law, applicant Nos. 4 is her sister-in-law and applicant No.5 is husband of applicant No.4. Applicant No.6 is maternal uncle and applicant No.7 is maternal aunt of applicant No.1 - husband of the informant/respondent No.2.

8. It is alleged in the FIR that since 05.09.2016 till lodging of the FIR, all the applicants in furtherance of their common intention, on suspecting character of the informant, starved her and they were also

taunting her on the ground that she is not knowing cooking and they were abusing and beating her. It is alleged that they were saying her to bring Rs.5 lakhs towards expenses of election and that she was driven out of the house, causing her mental and physical cruelty. She was threatened to kill. It appears from the FIR that for a period of three months after marriage, the informant was treated properly and thereafter above said harassment was started to her. It is alleged that applicant Nos. 4 and 5 used to come to her in-laws' house and they used to stay there for 8-15 days and at that time they were saying her that she is from the beggar's house and therefore she should behave properly otherwise they would not allow her to co-habit and as such they were instigating her husband and in-laws to beat her and to cause cruelty to her. It is further seen from the FIR that in October, 2017, respondent No.2 had gone to her parental house for Diwali festival and in November, 2017 her husband came to her parents house and took away her 10 tolas ornaments and mobile, saying that he has to purchase flat and thereafter on next day, on her mother's phone, applicant No.1 informed that the informant should reside at her parents' house and his tie with her is over. After 4-5 days of the said incident, parents and relatives of the informant convinced applicant No.1 - husband of the informant and then she was sent to house of her husband for cohabitation, on condition that she

should not use mobile and she should not meet people from her parental house. Thereafter, her husband, her in-laws and sisters-in-law started causing cruelty to her for demand of Rs.5 lakhs on saying that her husband has to spend Rs. 5 lakhs for election of Counsellor at Nanded and thereafter on 16.01.2019 her father-in-law and husband driven her out of house after assaulting her.

9. Above referred allegations against applicant Nos. 4 and 5 – sister-in-law and husband of sister-in-law of the informant are vague. There are no specific allegations against applicant Nos. 6 and 7 – maternal uncle and maternal aunt respectively of applicant No.1. Therefore, continuation of FIR against applicant Nos. 4 to 7 would amount to abuse of process of law. Nothing will be achieved by asking these applicants to face trial on the basis of the impugned FIR. Therefore, we are of the view that the impugned FIR needs to be quashed and set aside to the extent of applicant Nos.4 to 7 by allowing their application. Therefore, following order is passed :-

ORDER

- i) Application of applicant Nos. 1,2 and 3 is disposed of as withdrawn.

(7)

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ii) Application of applicant Nos.4,5,6 and 7 is allowed.
Relief is granted to them in terms of prayer clause (B).

iii) Rule is made absolute in those terms.

[S.M.GAVHANE,J.]

[T.V. NALAWADE,J.]