

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

CRIMINAL APPLICATION NO.4542 OF 2014

1. Anil S/o Sangamnath Hanegave,
Age 30 years, Occu. Private Service,
R/o Chainpur, Tq. Degloor,
District Nanded.
At present -
R/o Plot No.63, 'Vithal Krupa'
Mayurban Colony, Shahanoorwadi,
Aurangabad.
Tq. & Dist. Aurangabad.
2. Laxmibai W/o Sangamnath Hanegave,
Age 60 years, Occu. Household,
R/o Chainpur, Tq. Degloor,
District Nanded.
3. Sunil S/o Sangamnath Hanegave,
Age 25 years, Occu. Education,
R/o Chainpur, Tq. Degloor,
District Nanded.
4. Bhumanna S/o Hanumanta Hanegave,
Age 75 years, Occu. Pensioner,
R/o Chainpur, Ta. Degloor, Dist. Nanded.
5. Gangabai Bhumanna Hanegave,
Age 70 years, Occu. Nil,
R/o Chainpur, Tq. Degloor,
Dist. Nanded.
6. Gangaram S/o Vithoba Lagade,
Age – 70 years, Occu. Agri.,
R/o Chainpur, Tq. Degloor,
Dist. Nanded.
7. Vithal S/o Gangaram Lagade,
Age 45 years, Occu. Agri.,

R/o Chainpur, Tq. Degloor,
Dist. Nanded.

8. Karuna W/o Ashish Mugade,
Age 22 years, Occu. Household,
R/o Shimpala, Tq. Biloli,
Dist. Nanded.

9. Ashish S/o Shankarrao Mugade,
Age 26 years, Occu. Business,
R/o Shimpala, Tq. Biloli,
Dist. Nanded.

10. Shankar S/o Iranna Mugade,
Age 71 years,
R/o Shimpala, Tq. Biloli,
Dist. Nanded.

... **Applicants**

Versus

1. The State of Maharashtra,
Through District Superintendent of Police,
Beed, District Beed.

2. The Police Inspector,
Through City Police Station Ambajogai,
District Beed.

3. Sow. Anuradha W/o Anil Hanegave,
Age 24 years, Occu. Household,
R/o Chainpur, Tq. Degloor,
District Nanded.
At Present R/o Sainik Boys Hostel,
Chanai, Tq. Ambajogai,
District Beed.

... **Respondents**

...
Mr. S.B.Bhapkar, Advocate for Applicants.
Mr. S.J.Salgare, APP for Respondents-State.
Mr. S.B.Bhosle, Advocate for Respondent No.3.

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

DATE : 09.04.2019

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

Heard. Rule. The Rule is made returnable forthwith. The learned APP waives service for the Respondent-State. The learned advocate Mr. S.B.Bhosale waives service for Respondent No.3. With the consent of both the sides the matter is heard finally at the stage of admission.

2. The applicants who are the husband of the Respondent No.3 and his relatives are seeking quashment of Crime No.86 of 2014 registered with City Police Station Ambajogai, District Beed for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

3. Respondent No.3 set the criminal law in motion by lodging FIR on 23.05.2014. She alleged that her marriage was solemnized on 19.05.2010. She was maintained properly for first three years. She beget couple of children. However, thereafter the applicants started

insisting her to fetch an amount of Rs.5,00,000/- from her parents. On that count she was physically and mentally ill-treated. She was made to starve and was ultimately driven out of the house. She then alleged that while she was residing with her parents, on 09.10.2013 her husband, mother-in-law that is applicant Nos.1 and 2 and the others came in a vehicle and abused her and declared that they would allow her to resume cohabitation only if they were paid an amount of Rs.5,00,000/- for purchasing a plot. They threatened her of dire consequences and left. She therefore, approached Women's Grievance Cell and filed a complaint on 23.11.2013. But having experienced that it had no effect on the attitude of the applicants she filed the FIR and the crime was registered.

4. The learned advocate for the applicants vehemently submits that it is highly improbable and therefore unbelievable that respondent No.3 could have been maintained properly for the crucial initial period of three years and could have been subjected to ill-treatment thereafter. He would point out that even according to her,

it is only for a period of a year prior to the lodging of the FIR that the money was demanded and she was ill-treated. Applicant Nos.4 to 10 are distant relatives and have been roped in to wreck vengeance. The allegations against the applicants are vague and omnibus. In fact a compromise had taken place on 14.12.2013 to settle the dispute amicably but respondent No.3 did not obey the terms and conditions and filed a proceeding under the Domestic Violence Act and in quick succession lodged this FIR. She lodged one more Non-Cognizable Report on the basis of which even a chapter proceeding under Section 107 of the Cr.P.C. was initiated against the applicants. She has been bent upon to harass the applicants and has not left a stone unturned. She again lodged one more report alleging the applicants to have stolen laptop, passport and other important papers. Applicant No.7 was merely a student at the time of marriage of Respondent No.3. She was also married on 11.03.2012 and was residing at a far away place. In fact applicant No.1 is professionally qualified and was having a flourishing career but because of the insistence of Respondent No.3

to settle at a small village of her parental home he had to leave the employment at Banglore and Aurangabad. Therefore the crime may be quashed as it would be a sheer misuse of the process of law.

5. The learned APP and the learned advocate for Respondent No.3 strongly oppose the application. They submit that a very fact that a compromise was entered into shows that even applicant No.1 admits the contents thereof and although something can be said about the behaviour of Respondent No.3, even he has made certain admissions by assuring that he would not assault her and would not raise any demand. They would further point out that even when the parties were referred to the mediator, terms of compromise were reduced into writing and the mediator had filed it in this Court on 15.06.2018 and still the parties could not abide by the terms and conditions for whatever reason. This circumstance clearly indicates that the husband and his immediate relations like his mother are bent upon to harass her till the end. The circumstance further corroborates her allegations that she must have been subjected to some ill-treatment

which in all probabilities must have made her to go back to her parents.

6. We have carefully gone through the papers. So far as applicant Nos.1 and 2 are concerned they are the husband of Respondent No.2 and her mother-in-law respectively. In all probabilities she must have been cohabiting with them in the same abode and in our considered view, both must have played active role in subjecting her to ill-treatment by raising a demand for money which can certainly be gone into an inquired in a trial. It would not be therefore, just and proper to thwart the proceeding at the threshold.

7. In this respect it is equally important to note that the applicants themselves have produced a copy of the compromise deed (Exh-C) entered into between applicant No.1 and Respondent No.3. It has been duly signed by them in presence of witnesses. It prima facie shows that applicant No.1 has specifically undertaken inter alia that he would not assault her and would not raise any monetary demand. He also undertook not to subject her to any physical or mental ill-treatment. Certainly even

she has undertaken that she would not talk arrogantly to his relatives and would not leave his company. In our considered view, this is indeed a strong circumstance which prima facie shows that there is some substance in the allegations being levelled by Respondent No.3 in the FIR atleast as against applicant No.1. We, therefore, see no just and sufficient reason to quash the crime as far as applicant Nos.1 and 2 are concerned.

8. However so far as the rest of the applicants are concerned, as has been rightly submitted by their learned advocates, the allegations are certainly vague and omnibus. The FIR is certainly vague and does not attribute any specific and precise overt act to any of the applicant Nos.3 to 10.

9. For that matter, if one peruses a proceeding initiated by her under Section 12 of the Domestic Violence Act, copy of which is available on record (Exh.D), though all the petitioners have been arrayed therein as respondents, this complaint / application is equally vague and omnibus in attributing any role to applicant Nos.3 to 10. Only at one place it has been mentioned that they had instigated

her husband without elaborating anything more.

10. Taking into account all the afore-mentioned aspects, in our considered view it would be a sheer abuse of the process of law if applicant Nos.3 to 10 are made to face the investigation and the trial based on such vague and omnibus allegations. Their case squarely falls in Category 1, 3 and 7 of ***State of Haryana and Ors. Vs. Bhajan Lal and Ors. ; AIR 1992 Supreme Court 604.***

11. The application is therefore partly allowed. The application to the extent of applicant Nos.3 to 10 is allowed in terms of prayer clause 'C' and the rule is made absolute to that extent. Application to the extent of applicant Nos.1 and 2 is dismissed. The rule to their extent is discharged.

(MANGESH S. PATIL, J.)

(T.V.NALAWADE, J.)

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vmk/-