IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2533 OF 2019

1. Ibrahim s/o Umargulam Mohammed
Age : 28 years, Occ. Labour,

2. Fatemabi w/o Umargulam Mohammed
Age : 48 years, Occu. Household

3. Umargulam Rasul Mohammed
Age : 54 years, Occu. Nil

4. Zareen D/o. Umar Mohammed
Age : 22 years, Occu. Education

5. Bilal s/o. Umar Mohammed
Age : 25 years, Occ. Labour,

6. Ilyas s/o Umar Mohammed
Age : 19 years, Occ. Education
All R/o. Vajirabad, Khadkapura Nanded,
Tq. & Dist. Nanded.

...APPLICANTS
(Orig. ACCUSED)

VERSUS

1. The State of Maharashtra,
Through Police Station Vajirabad Nanded,
Tq. & Dist. Nanded.

2. Nishadparvin Mohammed Ibrahim
Age : 20 Years, Occu. Household
R/o. Near Khairloom School, Khadakpura
Nanded at present R/o. Near Aslam
Ground Khadakpura, Nanded

Tq. & Dist. Nanded. … RESPONDENTS
(Orig. Complainant

Mr. G. G. Suryawanshi, Advocate for the applicants
Mrs. V. S. Choudhary, APP for the respondent/State
Mr. R. V. Gore, Advocate for respondent No. 2.

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

DATED : 26-11-2019

ORAL JUDGMENT (PER :- S.M. GAVHANE, J.)

. Rule. Rule made returnable forthwith, heard finally with the consent of the parties.

2. By this application under Section 482 of the Code of Criminal Procedure applicants-accused No. 1 to 6 against whom crime No. 210 of 2019 has been registered on 06/07/2019 in Police Station, Vajirabad, Taluka and District Nanded for the offences punishable under Sections 498, 323, 504 and 506 read with Section 34 of the Indian Penal Code on the basis of report of the informant-respondent No. 2 have prayed to quash and set aside the said FIR.

3. Mr. Suryawanshi, learned counsel appearing for the

applicants when this Court expressed that the Court is not inclined to grant relief to applicants No. 1, 2 and 3, on instructions stated that these applicants are withdrawing the application and the same may be disposed of as withdrawn.

4. Mr. Suryawanshi, learned counsel for the applicants further submitted that respondent No. 2 has married to applicant No. 1 on 05/03/2017 and after marriage she had come to cohabitation at the house of the applicants. It is submitted that as per the FIR it is alleged that from the second day of marriage the people from in-laws house of respondent No. 2 had started starving her and saying her to bring Rs. 15,000/- for purchasing motorcycle and that the applicants used to abuse and beat her daily. When she was cohabiting she has begotten one son on 28/02/2018 and still her harassment was going on and on 05/06/2018 people from her in-laws house assaulted her and therefore she filed complaint in Vajirabad Police Station. Thereafter she was treated properly for some days. She disclosed said harassment to her parents. Thereafter there was mafinama on 11/09/2018. It is submitted that as per the allegations in the FIR when respondent No. 2 was pregnant again the people from her in-laws house started starving her

saying her that they do not want second issue. It is submitted that applicant No. 4 is taking education, applicant No. 5 is labour and applicant No. 6 is taking education. Allegations against these applicants in the FIR are vague. Role attributed to these applicants in the FIR is not specific. It is submitted that by filing the FIR the informant has roped all the family members of her husband just to harass them and therefore impugned FIR be quashed against applicants No. 4, 5 and 6 as it amounts to misuse of process of law.

5. Mr. Gore, learned counsel for respondent No. 2 and Mrs. Choudhary learned APP have submitted that the allegations in the FIR against the applicants are sufficient to attract the offences alleged against the applicants. Learned counsel for respondent No. 2 produced copy of FIR dated 27/07/2019 registered on the complaint of the informant against the applicants for the offences under Sections 452, 143, 147, 323, 504 and 506 of the Indian Penal Code alleging that said incident took place on 23/07/2019. Thus according to learned counsel for respondent No. 2 the applicants are habitual offenders and therefore no relief can be granted to them. Thus, the learned APP and learned counsel for respondent No. 2 have prayed to dismiss the application

submitting that there is no ground to quash the FIR.

6. We have carefully considered the submissions made by the learned counsel for the applicants, learned APP and learned counsel appearing for respondent No. 2 and perused the documents produced by the applicants and copy of FIR dated 27/07/2019 produced by learned counsel for respondent No. 2.

7. Perusal of the FIR dated 06/07/2019 lodged by respondent No. 2 depicts that she was married to applicant No. 1 on 05/03/2017 and from the second day of her marriage people from her in-laws house started demanding Rs. 15,000/- from her for purchasing motorcycle and applicants starved, abused and assaulted her daily and therefore she lodged complaint. She has begotten male child on 28/02/2018 still harassment was going on, therefore she filed complaint. Thereafter she was treated properly for some days and again she was threatened by showing knife. FIR discloses that there was mafinama given by her husband and in-laws on 11/09/2018. Thereafter her husband was saying her that he has to marry with the daughter of his paternal aunt and he does not like her and on saying so he was assaulting her. So

also, on saying that they do not want second issue people from her in-laws house use to beat and assault her and her Mangalsutra and ankle ornament were taken out, they were not returned to her. It is alleged that on 28/06/2019 she was driven out of house saying that people from her in-laws house do not want second issue. Above referred allegations against the applicants No. 4, 5 and 6, in the FIR are vague and no specific role is attributed to these applicants in the FIR. It appears that applicants No. 4 and 6 are taking education and applicant No. 5 is labour and they are quite young. Therefore, the allegations in the FIR are not sufficient to attract alleged the offences against applicants No. 4 to 6. Therefore, nothing will be achieved by putting these applicants for trial on the basis of impugned FIR. It appears that another crime has been registered on 27/07/2019 in the Police Station against the applicants as referred earlier while referring the submissions of the learned counsel for respondent No. 2, against the applicants, but said FIR appears to be filed after the impugned FIR. At least while considering application of the present nature, said FIR is not sufficient to brand applicants No. 4 to 6 as habitual offenders as submitted by learned counsel for respondent No. 2. For the aforesaid reasons, we are of the view that continuation of the FIR against applicants No. 4 to 6

would amount to abuse of process of law and it would be appropriate to quash the impugned FIR against applicants No. 4, 5 and 6 by allowing the application to their extent. Therefore, following order is passed.

ORDER

1. Application of applicants No. 1, 2 and 3 is disposed of as withdrawn.

2. Application of applicants No. 4, 5 and 6 is allowed.

3. Relief is granted to applicants No. 4, 5 and 6 in terms of prayer clause (B) of the application.

4. Rule is made absolutely in those terms.

[S.M. GAVHANE, J.] [T. V. NALAWADE, J.]