

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

CRIMINAL APPLICATION NO. 2260 OF 2018

1. Prabhakar S/o Anand Gadekar,
Age:62 Years, Occu.- Nil,
R/o.: House No.824, Mahada Colony,
Murtijapur, Aurangabad,
Tq. & Dist. Aurangabad.
2. Naresh S/o Prabhakar Gadekar,
Age:29 Years, Occu.- Private Service,
R/o.: House No.824, Mahada Colony,
Murtijapur, Aurangabad,
Tq. & Dist. Aurangabad.
3. Lavkesh S/o Prabhakar Gadekar,
Age:27 Years, Occu.- Education/part time job,
R/o.: House No.824, Mahada Colony,
Murtijapur, Aurangabad,
Tq. & Dist. Aurangabad.

... **Applicants**

Versus

1. State of Maharashtra,
Through Police Inspector,
M.I.D.C. CIDCO Police Station,
Aurangabad.
2. Neha W/o Mahesh Gadekar,
Age 25 years, Occ. Household,
R/o.: House No.35, Datta Nagar,
Galli No.1, Kailas Nagar, Aurangabad,
Tq. & Dist. Aurangabad.

... **Respondents**

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Mr. Avinash D. Aghav, Advocate for the Applicants.
Mr. S.B. Yawalkar, A.P.P. for respondent no.1-State.
Mr. Manohar S. Deshpande, Advocate for Respondent No.2

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**CORAM : T.V. NALAWADE &
MANGESH S. PATIL, JJ.**
DATE : 19.03.2019

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

The applicants are seeking quashment of the F.I.R./Crime No.141 of 2018 registered with M.I.D.C. CIDCO Police station, Arunangabad for the offences punishable under Section 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and the consequential Charge-sheet No.110 of 2018 filed and pending in the form of R.C.C. No.1882 of 2018 in the Court of the Chief Judicial Magistrate, Aurangabad.

2. The applicant no.1 is the father in law, whereas the other applicants are brother in laws of the respondent no.2. She lodged the F.I.R. on 15.06.2018 alleging *inter alia* that she was married on 30.05.2013. She was maintained properly for first six months and thereafter her husband started abusing and assaulting her. Her parent-in-laws used to ask her husband to demand money from her. Obliging them he started demanding an amount of Rupees Five Lakhs for carrying out construction of the house. When she refused he abused and assaulted her. Since thereafter she was made to starve and in this manner she was subjected to physical and mental torture. It is alleged that even the applicants threatened her of driving her out. It is alleged that her husband, her mother in law and all the applicants one day assaulted her by saying that they would not allow her to cohabit unless

she would bring money.

3. She further alleged that one day her mother in law also singe her and she was driven out. She stayed at her parental home for about eight months. Thereafter with the intervention of some persons she was sent back for resuming cohabitation with her husband. She was maintained properly for a year but again the demand for money and ill-treatment on that count started. She therefore lodged a complaint with the Women's Grievance Cell on 27.04.2018 and ultimately lodged the F.I.R.

4. The learned advocate for the applicants submits that the husband and the mother in law have not approached this Court and it is only the father in law and the brother in laws are seeking quashment of the F.I.R. and the charge-sheet because there are not specific and clear allegations against any of the applicants. Only vague and bald statements have been made. There is obviously a tendency demonstrated by the respondent no.2 to rope in all the family members without any rhyme or reason. Even in her complaint lodged with the Women's Grievance Cell she had made vague and omnibus statements regarding the applicants. The F.I.R. has been lodged to wreck vengeance. A simple matrimonial dispute has been sought to be disproportionately enlarged. The ingredients for constituting the offences cannot be made out *qua* the applicants. It would be a sheer misuse of the

process of the Court if the applicants are made to face the trial.

5. The learned A.P.P. and the learned advocate for the respondent no.2 referring to her affidavit in reply submit that no minute scrutiny of the material is permissible at this juncture. There must have been some strong reason for the respondent no.2 to lodge the F.I.R. The matter is better left to be decided at the trial as is laid down in the case of **Taramani Parakh V/s State of Madhya Pradesh and Others; (2015) 11 Supreme Court Cases 260**. There are specific allegations against the applicants which if go un rebutted would warrant conviction and the application may be dismissed.

6. When this Court expressed its disinclination to grant any relief to the applicant no.1 on merits, the learned advocate, on instructions, seeks leave to withdraw the application to his extent.

7. We have considered the rival submissions and the record. Obviously, at this stage and in this proceeding minute scrutiny of the material to cull down the offences is not expected. However, it is certainly necessary to ascertain as to if the allegations and the material collected during the course of investigation is sufficient enough and disclose all the necessary ingredients for constituting the offences, for, as is observed by the apex Court in several decisions including **Geeta Mehrotra & Anr. V/s. State of U.P. & Anr.; 2013 (AIR (SC) 181** and **Preeti Gupta and Anr. V/s. State of Jharkhand and**

Anr.; (2010) 7 Supreme Court Cases 667, there is usual tendency in matrimonial disputes to rope in as many relations of the husband as possible.

8. Bearing in mind these principles, if one examines the F.I.R., no specific and precise overt act is attributed to the applicant nos. 2 and 3 who are the brothers in law of the respondent no.2. Only vague and bald statements have been made while referring to the husband, mother in law and even the applicant no.1 who is father in law and even the applicant nos. 2 and 3 had threatened the respondent no.2. Accepting such isolated and bald statements she has not referred to any other circumstance or episode wherein the applicant nos.2 and 3 had taken any part in either subjecting her to cruelty or driving her out from the house.

9. For that matter even in her complaint dated 27.04.2018 lodged with the Women's Grievance Cell the allegations as regards the applicant nos. 2 and 3 are clearly absent.

10. If one refers to the statements of witnesses namely her mother Anitabai Sureshrao Mandal, her brother Rahul Sureshrao Mandal and her maternal uncle Dattatreya Ganpatrao Sonawane, there are no clear and specific allegations against the applicant nos. 2 and 3.

11. Considering all these aspects, in our view in the absence of any specific allegations and material showing the role played by the applicant nos.

2 and 3 and applying the principles laid down in the case of **State of Haryana and Ors. V/s. Bhajan Lal and Ors.**; AIR 1992 SUPREME COURT 604 their case squarely falls under category nos. 1 and 3.

12. The application deserves to be allowed to the extent of the applicant nos. 2 and 3 and is accordingly allowed in terms of prayer clauses 'B' and 'B-1'.

13. The application to the extent of applicant no.1 is disposed of as withdrawn.

14. The Rule is made absolute in above terms.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]

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