

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

CRIMINAL APPLICATION NO. 2630 OF 2018

1. Bhanudas Eknath Dhayade,
Age:30 Years, Occu.- Agri,
 2. Yashodabai Gorakhnath Dhayade,
Age:70 Years, Occ.- Agri,
 3. Gorakhnath Adinath Dhayade,
Age:71 Years, Occ.- Agri,
[Applicant No.1 to 3 R/o-
Baigaon, Tq. Deulgaon Raja,
District – Buldhana.]
 4. Eknath Gorakhnath Dhayade,
Age:34Years, Occ.-Private Service,
 5. Bhagyashree Eknath Dhayade,
Age:29 Years, Occ.-Household,
[Applicant No. 4 & 5 R/o.
Jai Bhavani Nagar, Aurangabad,
Tq. & Dist. Aurangabad.]
 6. Bhagwan Adinath Borkar,
Age:46 Years, Occ.-Agri,
 7. Kushiwarta Bhagwan Borkar,
Age:43 Years, Occ.-Household,
[Applicant No. 6 & 7 R/o.
Krushna Colony, Mukundwadi,
Aurangabad, Tq. & Dist. Aurangabad].
- ... **Applicants**

Versus

1. State of Maharashtra,
Through Police Inspector,

Jintur Police Station,
Tq. Jintur, Dist. Parbhani.

2. Jija w/o Bhanudas Dhayade,
Age 30 years, Occ. Household,
R/o. Khairi Plot, Jintur,
Tq. Jintur, Dist. Parbhani.

... Respondents

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Mr. A.N. Nagargoje, Advocate for the Applicants.
Mr. Mr. S.B. Joshi, A.P.P. for respondent no.1-State.
Mr. A.S. Lomte, Advocate for Respondent No.2.

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**CORAM : T.V. NALAWADE &
MANGESH S. PATIL, JJ.**
DATE : 08.04.2019

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

Heard. Rule. The Rule is made returnable forthwith. Learned A.P.P. waives service for the respondent no.1. Learned advocate Mr. A.S. Lomte waives service for the respondent no.2. With the consent of both the sides the matter is heard finally at the stage of admission.

2. The applicants who are the accused from Crime No.201 of 2018 registered with Jintur Police Station, district Parbhani for the offences punishable under Section 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code are seeking quashment of the crime and the charge-sheet filed pursuant thereto.

3. The F.I.R. was lodged by the respondent no.2 on 12.07.2018 *inter alia* alleging that her marriage was solemnized on 05.05.2011. She started cohabiting with the applicants who are her husband and in-laws, in their house at Baigaon Tq. Deulgaon Raja, District Buldhana. However she was subjected to ill-treatment. Money was demanded. She was insulted and therefore she went back to her parental home when she was driven out. On 30.01.2018 she lodged a complaint with the Women's Grievance Cell at Jintur. On 26.02.2018 her husband was called there. He undertook in writing that no demand for money would be raised and he would not ill-treat her. When she resumed cohabitation the ordeal continued. She was threatened of dire consequences and therefore she went back to her parents on 20.04.2018. Again demand was made to resolve the dispute when she approached the Women's Grievance Cell again, but it did not materialized and the F.I.R. was lodged.

4. After hearing both sides, when this Court expressed its disinclination to grant any relief to the applicant nos. 1 to 3 who are the husband and his parents, their learned advocate, on instructions seeks leave to withdraw the application to their extent.

5. We have carefully perused the F.I.R. and the papers. The

applicant no.4 is the brother in law and the applicant no.5 is his wife whereas the applicant no.7 is her sister in law and the applicant no.6 is her husband. Perusal of the F.I.R. reveals that a reference to the applicant nos. 4 to 7 is not precise as far as the allegations of demand for money and subjecting the respondent no.2 to cruelty are concerned, albeit they have been named therein. It is pertinent to note that the marriage was solemnized in the year 2011 and still the F.I.R. is silent as to up to which date she cohabited with the applicants. She states about having approached the Women's Grievance Cell with the complaint on 30.01.2018. Apart from lodging a complaint with the Women's Grievance Cell the respondent no.2 had also instituted D.V. Application No.12 of 2018 against the applicants under various provisions of the Protection of Women from Domestic Violence Act, 2005. However, even in that application she has not attributed any specific and precise overtact to applicant nos. 4 to 7 herein, either in demanding money or subjecting her to cruelty. It is important to note that this complaint was filed by her on 11.05.2018 and the F.I.R. has been lodged on 13.07.2018 still both are equally vague and omnibus qua applicant nos. 4 to 7.

6. True it is that as far as applicant no.4 brother in law is concerned a bald statement has been made in the F.I.R. that when she had gone back to her matrimonial home he had threatened her and her son of dire consequences. However in her application filed under the Domestic Violence

Act, she has not whispered anything about he having threatened her. Besides, she has not been specific to refer to the date or rough time period when he had threatened her.

7. In addition, the Aadhar cards of the applicant nos. 4 to 7 show that the applicant nos. 4 and 5 are resident of Aurangabad whereas applicant nos. 6 and 7 are also resident of Aurangabad at a different address. Whereas the matrimonial home and the place of residence of the applicant nos. 1 to 3 is Baiagaon, Taluka Devalgaon Raja, District Buldhana. Therefore there is also no material to show that applicant nos. 4 to 7 could have had some opportunity to subject the respondent no.2 to cruelty.

8. It is equally important to note that after such threats she had gone back to her parents on 20.04.2018 but the F.I.R. has been lodged belatedly on 12.07.2018. Considering all these facts and circumstances in our considered view the case of the applicant nos. 4 to 7 falls under category nos. 1, 3 and 7 of **State of Haryana and Ors. V/s. Bhajan Lal and Ors.; AIR 1992 SUPREME COURT 604** and the F.I.R. as well as the charge-sheet filed against them deserves to be quashed.

9. The application is allowed to the extent of applicant nos. 4 to 7. The rule is made absolute in terms of prayer clause 'A' to their extent.

10. The application to the extent of applicant nos. 1 to 3 is disposed of as withdrawn to their extent the rule is discharged.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]

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