

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

CRIMINAL APPLICATION NO. 2943 OF 2018

Ashrubha Eknath Ghuge,
Age: 69 years, Occ. Pensioner,
R/o. Chinchwadgaon, Tq. Dharur,
Dist. Beed.

... **Applicant**

Versus

1. The State of Maharashtra,
Through Police Station Officer,
Dharur Police Station,
Tq. Dharur, Dist. Beed.
2. Kashibai W/o Ashok Nagargoje,
Age: 22 years, Occ. Household,
R/o. Wadgaon (Gundha),
Tq. & Dist. Beed,
Now R/o. C/o. Shivaji Raghoba Mundhe,
Chondi, Tq. Charur, Dist. Beed.

... **Respondents**

.....

Mr. Rajendra G. Hange, Advocate for the Applicant.
Mr. M.M. Nerlikar, A.P.P. for Respondent no.1-State.
Ms. U.P. Giri, Advocate for Respondent No.2.

.....

**CORAM : T.V. NALAWADE &
MANGESH S. PATIL, JJ.**
DATE : 02.04.2019

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

Heard. Rule. The Rule is made returnable forthwith. Learned
A.P.P. and the learned advocate for the respondent no.2 waive service. With

the consent of both the sides the matter is heard finally at the stage of admission.

2. The applicant is seeking quashment of the F.I.R. and the charge-sheet in Crime No.243 of 2018 registered with Dharur Police Station, district Beed for the offences punishable under Section 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code. The respondent no.2 lodged the F.I.R. on 28.09.2018 alleging that she was married to one Ashok on 21.05.2017. She was maintained properly for six months of the marriage. Since thereafter she was being taunted on racial lines and on the ground that she was not good looking. They raised demand for money and assaulted her on that count. She then alleged that on 07.02.2018 all the in-laws including the applicant assaulted her on the ground of their demand for money and driven her out of the house. She lodged the complaint with the Women's Grievance Cell and the crime was registered which ultimately led to filing of the charge-sheet.

3. The learned advocate for the applicant submits that the applicant is a distant relative of the in-laws. He is the father of the mother in law of the respondent no.2. He resides at a different village. He is a pensioner and more than 69 years of age. Accepting the allegations in the F.I.R., no exclusive role is attributed to him. Accepting the allegations at their face value, all the

ingredients for the offences cannot be made out. When the parents of the husband, brother and even sister have been cohabiting in the matrimonial home of the respondent no.2, it is unlikely and improbable that the applicant could have been residing in the same house. Therefore 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** the crime and the charge-sheet be quashed.

4. The learned A.P.P. and the learned advocate for the respondent no.2 submits that the proceeding cannot be quashed at the threshold and an opportunity needs to be extended to them to substantiate their allegations and the application may be rejected.

5. We have carefully considered the F.I.R. and the statements of the witnesses. True it is that the applicant has been specifically named in the F.I.R. and even the witnesses have referred to him in their statement under Section 161 of the Cr.P.C. However it is pertinent to note that he is a man aged more than 65 years. He is the father of the mother in law of the respondent no.2. No specific and precise reason can be discerned to point out as to how he could have been staying in the same matrimonial house.

6. Be that as it may, accepting the allegations in the F.I.R. and in the statements of the witnesses at their face value, no exclusive and precise role is

attributed to him in either demanding money or subjecting the respondent no.2 to cruelty. The statements of witnesses Shivaji who is the father of the respondent no.2, Gandhari who is her mother, Bharat her brother, witnesses Babasaheb and Suresh are equally vague and omnibus and do not attribute any overt act to the applicant. The case of the applicant therefore is squarely covered by the category nos. 1, 3 and 8 of the **Bhajan Lal's** case. The application therefore deserves to be allowed.

7. The application is allowed in terms of prayer clause 'B' and 'F' and the rule is made absolute in those terms.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]