THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 3178 OF 2018

1] Shahid Abdul Haleem s/o. Mohd. Abdul Sami,
Age: 28 years, Occu: Preaching and Business,
R/o. 10-13-297/1A, Dharampuri Hills,
Nizambad (Telangana State).

2] Mohd. Abdul Sami S/o. Mohd Abdul Quddus,
Age: 62 years, Occu: Retired,
R/o. House No.7-14-334, Habib Nagar,
Near Masjid, Nizambad (Telangana State).

3] Rafique Parveen w/o. Mohd Abdul Sami,
Age: 50 years, Occu: Housewife,
R/o. House No.7-14-334, Habib Nagar,
Near Masjid, Nizambad (Telangana State).

4] Ehtesam Zaki s/o. Mohd. Abdul Sami,
Age: 26 years, Occu: Service,
R/o. Asma Cottage, 12-2-709/5/1/D,
Navodaya Colony, Hyderabad (Telangana State).

5] Sohel Iftqar s/o. Mohd. Abdul Sami,
Age: 25 years, Occu: Service,
R/o. Asma Cottage, 12-2-709/5/1/D,
Navodaya Colony, Hyderabad (Telangana State).

... **APPLICANTS**

V E R S U S

1] The State of Maharashtra,
Through Bhagya Nagar Police Station,
Nanded, Tq. & Dist. Nanded.

2] Uzma Parveen w/o. Shahid Abdul Haleem,
c/o, Abdul Majeed S/o Md. Akbar,
Age: 27 years, Occu: Household,

R/o. Bilal Nagar, Beside K N Function Hall,
Railway Station Road, Bhokar, Tq. Bhokar,
Dist. Nanded. ... **RESPONDENTS**
[Resp. No.2 ori. complainant]

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Mr. Mahesh V. Ghatge, Advocate for Applicants.

Mrs. D. S. Jape, APP for Respondent No.1 / State.

Mr. Taher Ali Quadri, Appointed Advocate for Respondent No.2.

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CORAM : **T. V. NALAWADE &**
K. K. SONAWANE, JJ.

DATE : 20th June, 2019.

JUDGMENT: (Per T. V. Nalawade, J.)

. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2 The proceeding is filed under Section 482 of the Code of Criminal Procedure for relief of quashing of FIR No.284 of 2018, registered with Bhagya Nagar Police Station, Tahsil and District Nanded and also the case filed in the said crime bearing R.C.C. No.106 of 2019, which is pending in the Court of Judicial Magistrate First Class, Nanded. The case is filed for the offences punishable

under Sections 498-A, 323, 294, 354 and 506 read with 34 of the Indian Penal Code. Some papers were produced by the Applicants.

3 The crime is registered on the basis of report given by Respondent No.2, Uzma, who is the wife of Applicant No.1, Shahid. She has made allegations that her husband and his relatives like Applicant Nos.2 to 5 have harassed her in various ways. Her marriage took place in the year 2011. It is the contention of the wife that after 1 and 1/2 years of the marriage, all the Applicants started asking her to bring Rs.2,00,000/- from her parents. Allegations are made that Applicant No.4, who is elder brother-in-law has evil eye on her and he used to tease her. Allegations are made that they used to give threat of life and they were using black magic against her. She has two issues from Applicant No.1. It is her contention that she was driven out of matrimonial house on 7th August, 2017. It is her contention that many attempts were made to convince the Accused to behave well and take the first informant back to the matrimonial house but, they avoided to do so and they have asked to bring Rs.2,00,000/- from her parents. It is her case that all her ornaments were snatched and taken away by the Applicants and the Women Grievance

Redressal Cell could not do anything as the Applicants did not give response to that cell.

4 Applicant Nos.2 and 3 are parents of Applicant No.1 and Applicant Nos.4 and 5 are real brothers of Applicant No.1. The learned counsel for Applicants submitted that separate house was purchased by the husband of first informant and this couple was living separate from other Applicants and false allegations are made against the relatives of the husband only to pressurize the husband. Some record in respect of Applicants Nos.4 and 5 is produced to show that they were receiving education at Hyderabad. It is contended that Applicant No.5 is in service and so he had no opportunity or occasion to give ill-treatment to the first informant.

5 The learned counsel for first informant has produced on record photocopies of Aadhaar Cards showing that all the Applicants obtained the card by showing the same residence of Nizambad (Telangana State). This Court has carefully gone through the allegation made against the Applicants. There are specific allegations as against Applicant Nos.1 to 4. There are serious allegations against

Applicant No. 4 amounting to molestation. There are no such allegations as against Applicant No.5 and the allegations are very vague against him.

6 The learned counsel for Applicants submitted that in view of the nature of allegations of molestation, FIR could not have been registered in Maharashtra as the said incident took place in Telangana State. On that point, he placed reliance on some observations made by the Apex Court and this Court. The cases on which reliance was placed by both the sides are as under:

a) ***Criminal Appeal No.71 of 2012***, (*Rupali Devi Vs. State of Uttar Pradesh & Ors.*) decided by the Supreme Court on 9th April, 2019;

b) ***1997 AIR (SC) 2465***, (*Sujata Mukherjee Vs. Prashant Kumar Mukherjee*);

c) ***Appeal (Crl.) 904 of 2004***, (*Y. Abraham Ajith & Ors. Vs. Inspector of Police, Chennai & Anr.*) decided by the Supreme Court on 17th August, 2004;

d) ***2005 DGLS (A.P.) 1136***, (*Syed Khaja Mohiuddin Vs. State of A.P.*), Andhra Pradesh High Court;

e) ***2005 (2) Bom.C.R. (Cri.) 269***, (*Brahma Chellaney Vs. Marpol Private Limited & another*), Bombay High Court; and

f) ***2018 All.M.R. (Cri.) 4434***, (*Arun Ambaji Dhatrak and Others Vs. State of Maharashtra and Another*), Aurangabad Bench of this Court.

7 In the case of *Rupali Devi* (supra), the Apex Court has made it clear that the offence punishable under Section 498-A is continue in nature and when the wife is driven out of the matrimonial house due to cruelty and she is living at other place, the jurisdiction needs to be decided on the basis of the facts of that case and ordinarily the wife can file complaint, give report at the place where she is living. Further, when there is other offence like Section 354 of the Indian Penal Code, which is a part of main offence, it cannot be said that only for the offence punishable under Section 354 of the Indian Penal Code, FIR ought to have been given in Telangana State. That act of Applicant No.4 can be treated as a part of offence of

cruelty as defined under Section 498-A of the Indian Penal Code. In view of these circumstances, this Court holds that there is no force in the defence taken about the local jurisdiction.

8 In view of the aforesaid circumstances, this Court holds that no relief can be granted as against Applicant Nos.1 to 4, but the relief can be given to Applicant No.5. In the result, the following order is passed:

O R D E R

I. The application of Applicant Nos.1 to 4 is dismissed.

II. The application of Applicant No.5 (Sohel Iftqar s/o. Mohd. Abdul Sami) is allowed. Relief is granted to Applicant No.5 (Sohel Iftqar s/o. Mohd. Abdul Sami) in terms of prayer clause (AA).

III. Rule is made absolute in those terms.

[K. K. SONAWANE, J.] **[T. V. NALAWADE, J.]**

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