

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

CRIMINAL APPLICATION NO.3248 OF 2018

1. Mangesh s/o Dilip Bhadane,
Age 31 years, Occu. Agril.,
2. Dilip s/o Motiram Bhadane,
Age 58 years, Occu.Agril.,
3. Alkabai w/o Dilip Bhadane,
Age 53 years, Occu. Housewife

Applicant Nos.1 to 3 R/o Hisale,
Tq. Shirpur, District Dhule
4. Ravindra s/o Motiram Bhadane,
Age 53 years, Occu. Agril.,
5. Indira w/o Ravindra Bhadane,
Age 47 years, Occu. Housewife,

Applicant Nos.4 and 5 R/o Swami
Narayan Mandir, Shirpur,
Tq. Shirpur, District Dhule
6. Sarita w/o Murlidhar Bhadane,
Age 43 years, Occu. Housewife,
R/o Sakri, Tq. Sakri, District Dhule
7. Vaishali w/o Manohar Patil,
Age 42 years, Occu. Housewife,
8. Manohar s/o Rohidas Patil,
Age 42 years, Occu. Service,

Applicant Nos.7 and 8 R/o Flat No.3,
Shri Samarth Krupa Apartment,
Sonarpada Murbad, Tq. Murbad,
District Thane
9. Pitambar s/o Dhodu Patil,
Age 52 years, Occu. Agril.,

10. Rameshwar s/o Ramkrushna Patil,
Age 35 years, Occu. Labour,
11. Pramod s/o Nandlal Patil,
Age 32 years, Occu. Business,
12. Sandip s/o Prakash Patil,
Age 38 years, Occu. Agril.,
13. Sambhaji s/o Baliram Patil,
Age 38 years, Occu. Agril.,
14. Jagdish s/o Prabhakar Patil
Age 32 years, Occu. Business
15. Jagan s/o Babulal Pardeshi,
Age 36 years, Occu. Driver,

Applicant Nos.9 to 15 R/o Hisale,
Tq. Shirpur, District Dhule

... **APPLICANTS**

VERSUS

1. The State of Maharashtra
through P.S.I., Kasoda Police Station,
Tq. Erandol, District Jalgaon.
2. Pratiksha w/o Mangesh Bhadane,
Age 25 years, Occu. Nil,
C/o Dagaji s/o Uttam Patil,
R/o Adgaon, Tq. Erandol,
District Jalgaon

... **RESPONDENTS**

.....
Shri Prakashsing B. Patil, Advocate for applicant
Shri S.B. Narwade, A.G.P. for respondent No.1.
Shri P.P. Shahane, Advocate for respondent No.2 (appointed)

.....
**CORAM: S.S. SHINDE AND
R.G. AVACHAT, JJ.**

Date of reserving judgment : 28th February, 2019

Date of pronouncing judgment : 7th March, 2019

JUDGMENT (PER R.G. AVACHAT, J.) :

1. Rule. Rule returnable forthwith and heard finally with the consent of learned counsel appearing for the parties.

2. By this application under Section 482 of the Criminal Procedure Code, the applicants seek quashment of the F.I.R. (Crime No.27/2018), registered with Kasoda Police Station, Taluka Erandol, District Jalgaon and consequential proceedings in Regular Criminal Case No.58/2018, pending before the Court of Judicial Magistrate, First Class, Erandol. The applicants are alleged to have committed offences punishable under Sections 498-A, 406, 323, 504, 506 read with Section 34 of the Indian Penal Code.

3. The applicant No.1 married the respondent No.2 (first informant) on 21.5.2017. The applicants No.2 and 3 are the parents-in-law of the first informant. The applicants No.4 to 10 are stated to be distant relatives of the applicants No.1 to 3 whereas the applicants No.11 to 15 are the friends of applicant No.1.

The applicants are alleged to have harassed and ill-treated the first informant so as to coerce her to fetch

Rs.10,00,000/- from her father for purchasing a Car. The applicants No.1 to 3 are also alleged to have relieved the first informant of her gold ornaments. The applicants No.1 to 8 are also alleged to have teased the first informant over her look, cooking ability etc. The learned counsel for the applicants would submit that the allegations in the F.I.R. are false and concocted. The persons who are not the relatives of the applicants No.1 to 3 have also been roped in.

4. According to the learned counsel for the applicants, the first informant has initiated proceedings, under Section 125 of the Criminal Procedure Code and under the provisions of the Protection of Women from Domestic Violence Act (hereinafter referred to as the Domestic Violence Act). The averments/ allegations in the F.I.R., application for maintenance under Section 125 of the Criminal Procedure Code and the complaint under the Domestic Violence Act are inconsistent with each other. According to the learned counsel, the impugned F.I.R. and the consequential record and proceedings of Regular Criminal Case No.58/2018 are, therefore, liable to be quashed.

5. The learned A.P.P. representing the State and the learned counsel appearing for the first informant, took us through the allegations in the F.I.R. to contend that the offences are made

out against one and all the applicants. According to them, there are statements of the witnesses to reinforce the allegations in the F.I.R. According to the learned counsel, the application is, therefore, liable to be rejected.

6. Admittedly, the applicant No.1 married the respondent No.2 in May 2017. After marriage, the respondent No.2 started residing with her husband and parents-in-law in the matrimonial home at village Hisale, Taluka Shirpur, District Dhule. It has been alleged in the F.I.R. that the parents of the respondent No.2 gave her gold ornaments of little over 13 tolas in her marriage. It has further been alleged that, for two days next of the marriage, the respondent No.2 and the applicant No.1 had been to Shirdi and Saputara. On her return, the parents-in-law started teasing her. They would say her that she was not good. Her hair are short. She is mentally derailed. They wanted to have daughter-in-law sporting long hair. It has also been alleged that, the trio (husband and parents-in-law) used to physically assault her. It has further been alleged that, the trio took her all gold ornaments and in June 2017, the applicant No.1 accompanied her to drop her at her parental house. The further allegations in the F.I.R. are that the parents-in-law asked her to fetch Rs.10,00,000/- for purchasing a Car.

7. The aforesaid allegations in the F.I.R. against the husband and parents-in-law are specific. They, therefore, could not be heard to say that no offence is made out from the allegations in the F.I.R. In respect of the other applicants, the case is, however, other way round. There are general allegations against rest of the applicants. The sister-in-law - Vaishali and her husband Manohar have been residing at Murbad, District Thane. They have been alleged to have had instigated the parents-in-law to turn her out of matrimonial home. The applicants No.14 and 15 are the friends of applicant No.1. They have also been roped in. They are alleged to have had instigated the applicant No.1 to physically assault the respondent No.2. It is stated in the F.I.R. that, in March 2018, the applicant No.1 and 9 to 15 brought the respondent No.2 to her parental home at Erandol and complained her parents about respondent No.2's behaviour. They are also alleged to have given threats to her life if she was sent back to matrimonial home.

8. The statements of the witnesses recorded during investigation are bound to be consistent with the allegations in the F.I.R. since most of the statements are of the relatives of the respondent No.2 from her parental side.

9. In our considered view, the allegations in the F.I.R.

make out a case only against applicants No.1 to 3. The relatives of the applicant No.1 who have not been staying at the matrimonial home of the respondent No.2 have also been roped in by making general allegations against them. The respondent No.2 has complained against not less than 15 persons. The same indicates determination to book the distant relations, and even the friends of the applicant No.1. Admittedly, the respondent No.2 filed application for maintenance under Section 125 of the Criminal Procedure Code. She has also made a complaint under the Domestic Violence Act. If we compare the allegations in the F.I.R. on one hand and the averments made in the application for maintenance, and the complaint under the Domestic Violence Act on the other, those are irreconcilable. At the cost of repetition, it is stated that, the allegations in the F.I.R. prima facie make out a triable case against applicants No.1 to 3. in view of this, the application deserves to be rejected so far as regards applicants No.1 to 3 are concerned.

10. Since the allegations in the F.I.R. made against rest of the applicants are general in nature, it appears to us that, they have been unnecessarily roped in. Allowing the proceedings in R.C.C. No.58/2018 to continue against the applicants No.4 to 15 would, therefore, be an abuse of process of Court. The application, therefore, needs to be allowed so far as regards

these applicants No.4 to 15 are concerned.

11. In the result, the application partly succeeds. Criminal Application, so far as regards applicants No.1 to 3 are concerned, is rejected.

Criminal Application is allowed so far as regards applicants No.4 to 15 are concerned. The F.I.R. (Crime No.27/2018), registered with Kasoda Police Station, Taluka Erandol, District Jalgaon and consequential proceedings in Regular Criminal Case No.58/2018, pending before the Court of Judicial Magistrate, First Class, Erandol are quashed as far as regards applicant Nos.4 to 15. Rule made partly absolute in above terms.

Fees of Mr. P.P. Shahane, learned counsel for respondent No.2 is quantified at Rs.2500/- (Rupees two thousand five hundred only).

R.G. AVACHAT
JUDGE

S.S. SHINDE
JUDGE

fmp/-