

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

**CRIMINAL APPLICATION NO.3356 OF 2018**

1. Akash Shamuvel Ghatvisave,  
Age 26 years, Occu. Service,  
R/o Nirmal Nagar, Gadekar Chowk,  
Pipeline Road, Savedi Road,  
Ahmednagar.
2. Shamuvel Vitthal Ghatvisave,  
Age 58 years, Occu. Service,  
R/o Nirmal Nagar, Gadekar Chowk,  
Pipeline Road, Savedi Road,  
Ahmednagar.
3. Kavita Shamuvel Ghatvisave,  
Age 53 years, Occu. Household,  
R/o Nirmal Nagar, Gadekar Chowk,  
Pipeline Road, Savedi Road,  
Ahmednagar.
4. Diksha Shamuvel Ghatvisave, @  
Diksha Atul Bare,  
Age 24 years, Occu. Household,  
R/o Amalgir, Bhingar, Ahmednagar
5. Raksha Shamuvel Ghatvisave @  
Raksha Pravin Kadam,  
Age 28 years, Occu. Household,  
R/o Bhshop Loyd Colony,  
Near T.V. Center, Ahmednagar

**...APPLICANTS**

**VERSUS**

1. The State of Maharashtra  
Through Police Inspector,  
Topkhana Police Station,  
District Ahmednagar  
(Copy to be served on P.P.,  
High Court of Bombay,  
Bench at Aurangabad)

2. Sayali Akash Ghatvisave,  
Age 26 years, Occu. Service,  
R/o Flat No.6, Suvarna Apartment,  
Gadekar Chowk, Pipeline Road,  
Ahmednagar.

...**RESPONDENTS**

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Shri P.P. Kothari, Advocate for applicants  
Shri N.B. Narwade, A.P.P. for State  
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**CORAM: S.S. SHINDE AND  
R.G. AVACHAT, JJ.**

**DATED : 14th February, 2019**

**ORAL JUDGMENT (PER S.S. SHINDE, J.) :**

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

2. This application takes exception to the F.I.R.. BEAIRNG Crime No.I-515/2018, registered with Tophkhana Police Station, Ahmednagar under Sections 498(A), 504 read with Section 34 of the Indian Penal Code and the Charge Sheet bearing No.304/2018 filed on 12.12.2018, in R.C.C. No.1000/2018.

3. Learned counsel appearing for the applicants invites our attention to the allegations in the F.I.R. and also the statements of the witnesses and other material collected during the course of investigation and submits that, even if the

allegations in the F.I.R. are read in its entirety, the alleged offence is not disclosed. It is submitted that, there are general and omnibus allegations which would not constitute the alleged offence. It is submitted that, so far the incident dated 5.11.2016, as alleged in the F.I.R., is prior to two years of the lodging of the impugned F.I.R. It is submitted that, about the said incident, already a separate F.I.R. had been registered and now the case is pending for trial. It is submitted that, the alleged demand of Rs.3,00,000/- is afterthought and in retaliation of the filing of non-cognizable case filed by the applicant No.1. In support of the aforesaid contentions that when there are general and omnibus allegations made in the F.I.R. and if the statements of the witnesses are vague, and the relatives have been implicated unnecessarily in such case, the F.I.R. and also the further proceedings deserves to be quashed, the learned counsel for the applicant placed reliance on the following judgments :

- (1) Geeta Mehrotra & anr. Vs. State of U.P. & Anr.  
2012 AIR (SCW) 5692
- (2) Preeta Gupta Vs. State of Jharkhand  
2010 AIR (SCW) 4975
- (3) Ganesh Mangal Giri & ors. Vs. State of Maharashtra & anr.  
2016(1) Bom.C.R. (Cri.) 830

4. On the other hand, learned A.P.P. appearing for the State, relying upon the contents of the F.I.R. and the charge sheet

and its accompaniments, submits that, the investigating officer has collected sufficient material and the trial can proceed on the basis of such material as against all the applicants.

5. Learned counsel appearing for the respondent No.2 invites our attention to the statements of witnesses and also the contents of the F.I.R. and other material collected during the course of investigation and submits that, the prosecution agency has collected sufficient material and trial can proceed against the applicants. It is submitted that, at the relevant time of the incident in the year 2016, the applicants No.4 and 5 were residing in the nearby vicinity where the matrimonial home is situated and, therefore, the application may be rejected. Learned counsel for respondent No.2 relied on the case of **Taramani Parakh Vs. State of M.P. & ors.** reported in **2015 AIR (SCW) 1817.**

6. We have given careful consideration to the submissions of the learned counsel appearing for respective parties. With their able assistance, we have carefully perused the allegations in the F.I.R. so also the statements of the witnesses and other accompaniments of the charge sheet. Upon careful perusal of the allegations in the F.I.R., so far applicants No.1 to 3 are concerned the said allegations would prima facie disclose ingredients of alleged offences. If the statements of witnesses

are read conjointly with the F.I.R., prima facie ingredients of alleged offence are attracted and consequently, alleged offence is disclosed. The fact that there was demand of Rs.3,00,000/- by the accused would require appreciation of the evidence and the informant will depose before the trial Court about such allegations.

7. So far applicants No.4 and 5 are concerned, there are general and omnibus allegations. The fact that both the applicants No.4 and 5, who are married sisters of applicant No.1, are residing separately is not in dispute. It appears that they are unnecessarily implicated. In that view of the matter, keeping in view the judgment of the Supreme Court in the case of Geeta Mehrotra (supra), we are of the opinion that the application of applicants No.4 and 5 deserves to be allowed and application of applicants No.1 to 3 deserves to be rejected. Accordingly, we pass the following order :

### **ORDER**

- (i) The application of applicants No.4 and 5 is allowed.
- (ii) Consequently, further proceedings in Charge Sheet bearing No.304/2018, filed on 12.12.2018 in R.C.C. No.1000/2018 pursuant to F.R. bearing Crime No.I-515/2018, registered with Tophkhana Police Station,

Ahmednagar under Sections 498(A), 504 read with Section 34 of the Indian Penal Code as against applicants No.4 and 5 are quashed and set aside.

- (iii) The application of applicants No.1 to 3 is rejected.
- (iv) The observations made hereinabove are prima facie in nature and confined to adjudication of the present application, and the trial Court shall not get influenced by the aforesaid observations during the course of trial.
- (v) It may be open for the applicants No.2 and 3 to file application for exemption before the trial Court in case the dates are not fixed for effective hearing by the trial court.
- (vi) Application stands disposed of accordingly.
- (vii) Rule made partly absolute in above terms.

**R.G. AVACHAT**  
**JUDGE**

**S.S. SHINDE**  
**JUDGE**

fmp/