

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

CRIMINAL APPLICATION NO. 3375 OF 2018

- 1) Chandramani Datta Waghmare
Age: 31 years, Occu. Service,
R/o. c/o II-B-27, Janak Vihar
Near DMS Booth, Indian Agricultural
Research Institute, Pusa,
New Delhi – 110 012.
- 2) Chhayabai @ Rajshri Datta Waghmare
Age: 55 years, Occu. Housewife,
R/o Mahatma Phule Housing Society,
Kandhar, Tq. Kandhar, Dist. Nanded.
- 3) Datta Khanduji Waghmare
Age: 62 years, Occu. Nil,
R/o Mahatma Phule Housing Society,
Kandhar, Tq. Kandhar, Dist. Nanded.

... **Applicants**

Versus

- 1) The State of Maharashtra,
Through Police Inspector,
Kandhar Police Station,
Tq. Kandhar, Dist. Nanded.
- 2) Amita Chandramani Waghmare
Age: 26 years, Occu. Housewife,
R/o Walsangi, Sub Post- Shirur Tajband,
Tq. Ahmedpur, Dist. Latur.

... **Respondents**

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Mr. V.V. Deshmukh., Advocate for the Applicants.

Mr. S.B. Joshi, A.P.P. for Respondent no.1-State.

Mrs. Tina M. Tripathi, Advocate for Respondent No.2 (Appointed).

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**CORAM : T.V. NALAWADE &
MANGESH S. PATIL, JJ.**
DATE : 30.04.2019

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. In this proceeding under Section 482 of the Cr.P.C. the applicants who are some of the accused from Crime No. 185 of 2018 registered with Kandhar Police Station, District Nanded for the offences punishable under Section 498-A, 323, 506 read with Section 34 of the I.P.C. are seeking its quashment.

3. The marriage between the applicant no.1 and respondent no.2 was solemnized on 10.05.2017. Rest of the applicants are his parents. After the marriage she co-habited with the applicants at Kandhar for fifteen days. The applicant no.1 was then serving at Delhi and therefore she thereafter went with him to Delhi. The couple along with his parents then stayed at Delhi for two to three months. During this period, it is alleged by the respondent no.2 in the F.I.R. that his parents instigated him and pursuant thereto he started suspecting her character and started physically assaulting

her. Because of such harassment she had to undergo an abortion. When she came back to Kandhar her ordeal continued. Her character was suspected. A demand for money was raised and on that count she was ill-treated. Lastly, she alleged that on 01.01.2018 she was driven out of the house and was asked to give divorce to the applicant no.1 and was threatened of dire consequences if she did not oblige.

4. The learned advocate for the applicants vehemently submitted that the F.I.R. is false and omnibus and has been lodged to wreck vengeance. The applicant no.1 is a Scientist serving in Indian Agricultural Research Institute, New Delhi. While she was co-habiting with him at Delhi she suffered a missed abortion. She was treated at Dr. Ram Manohar Lohiya Hospital. She on her own went back to her parental home on 31.12.2017 under the pretext of undergoing medical check-up and since then she was not ready to resume co-habitation. He had no alternative but to file a petition for divorce. It would be a sheer abuse of process of law if the applicants are made to face the charge.

5. The learned A.P.P. and the learned advocate for the respondent no.2 strongly oppose the application. They submit that already this Court has rejected a similar application for quashment bearing Criminal Application No. 2110 of 2018 by the judgment and order dated 05.10.2018. Since thereafter

there is no material change in the circumstances albeit the charge-sheet has been filed.

6. They would further submit that the very fact that the Investigating Officer has found material sufficient enough to enable him to file the charge-sheet shows that the matter needs a serious consideration. The doors of justice cannot be closed to the respondent no.2 at the threshold. She needs to be extended sufficient opportunity to substantiate the allegations which can happen only during a full-fledged trial. The application therefore may be rejected.

7. Though strictly speaking, there could not be a bar for such successive application for the same relief of quashment in view of the fact that since rejection of the earlier application, a charge-sheet has been filed and the applicants could avail of an opportunity to demonstrate from the material collected by the Investigating Officer that even accepting all the material at its face value the ingredients for the offences cannot be made out.

8. However a careful perusal of the charge-sheet would clearly reveal that it is not a case that which can be lightly brushed aside being false and frivolous. Suffice for the purpose to observe that there are statements of the parents of the respondent no.2, her sister and brother. Similarly there is a statement of one Sow. Ashabai Ashokrao Sonkamble who happens to be the

neighbour of the applicants. She has specifically stated that the respondent no.2 was frequently telling her that her husband and in laws were suspecting her character, demanding money and were physically and mentally ill-treating her. Similar is the statement of her husband Ashokrao Sonkamble and of Sadanand A. Jondhale. Considering all these aspects, there is enough material *prima facie* to reveal and disclose all the necessary ingredients which would constitute the offences punishable under Section 498-A, 323, 506 of the I.P.C.

9. True it is that there is some delay in lodging the F.I.R. However in our considered view, an opportunity needs to be extended to the respondent no.2 to explain the delay during the course of trial.

10. Some material is placed on record in the form of air tickets of the applicants to show that they were not present at the village when she alleged that she was driven out of the house. To our mind, no such chaffing of the material is possible in this proceeding and is not to be resorted to. The application is rejected. The Rule is discharged.

11. The fees of the learned advocate appointed to represent respondent no.2 is quantified @ Rs.3000/- and it is to be paid through the High Court Legal Services Authority.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]