

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

CRIMINAL APPLICATION NO.3477 OF 2018

1. Shaikh Riyaz S/o Shaikh Husen,
Age 29 years, Occu. Worker / Labour,
2. Shaikh Husen S/o Shaikh Sardar,
Age 58 years, Occu. Agri.,
3. Shaikh Ruksana W/o Shaikh Husen,
Age 52 years, Occu. Household,
4. Shaikh Raees S/o Shaikh Husen,
Age 34 years, Occu. Agri.,
5. Rizwana Begum W/o Shaikh Raees,
Age 26 years, Occu. Household,

All above R/o Kanadgaon,
Tq. Gangapur, Dist. Aurangabad.
6. Shaikh Nawab S/o Shaikh Gulab,
Age 35 years, Occu. Agri.,
R/o Rajaray-Takali, Tq. Khultabad,
Dist. Aurangabad. ... **Applicants.**

Versus

1. The State of Maharashtra,
Through Investigation Officer,
Bidkin Police Station,
Tq. Paithan, District Aurangabad.
2. Taslim Bano W/o Shaikh Riyaz,
Age 26 years, Occu. Household,
R/o At present – Village Pangra,
Tq. Paithan, Dist. Aurangabad. ... **Respondents**

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Mr. Shaikh Kayyum Najir, Advocate for Applicants.

Mr. Swapnil Joshi, APP for Respondent-State.

Mr. R.G.Joshi, Advocate for Respondent No.2.

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**CORAM : T.V.NALAWADE AND
MANGESH S. PATIL, JJ.**

DATE : 01.04.2019

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

Heard. Rule. The Rule is made returnable forthwith. The learned APP waives service for the Respondent-State. The learned advocate Mr. R.G.Joshi waives service for Respondent No.2. With the consent of both the sides the matter is heard finally at the stage of admission.

2. The applicants who are the husband and in-laws of Respondent No.2 are seeking quashment of Crime No.I-171 of 2012 registered with Bidkin Police Station, Tq. Paithan, District Aurangabad punishable under Section 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code as well as under Section 4 and 5 of the Dowry Prohibition Act and also seeking quashment of the charge-sheet filed pursuant thereto in the Court of

Judicial Magistrate First Class, Paithan.

3. We have heard both the sides at length. After this Court expressed its disinclination to grant any relief to applicant Nos.1 to 5 their learned advocate, on instructions, seeks leave to withdraw the application to their extent.

4. So far as applicant No.6 is concerned, he is the husband of the applicant No.5 who happens to be the sister-in-law of Respondent No.2. He is resident of Taluka Khultabad whereas the rest of the applicants are residents of village Kanadgaon, Taluka Gangapur, District Aurangabad. Going by the FIR, the allegations as regards applicant No.6 are clearly omnibus and vague. A careful perusal of the FIR as well as the other material annexed to the charge-sheet shows that primarily the allegations regarding the demand for money and subjecting Respondent No.2 to cruelty on that count have been levelled against the husband and his blood relations. She has narrated few episodes. She alleged that on 05.11.2011 she was taken to a Doctor and after sex determination

attempt was made to get her aborted finding that it was a female foetus. Then she has narrated about an episode dated 18.05.2012 wherein she alleged that she was not allowed to enter into the matrimonial home. Then she has alleged that on 09.09.2012 when she was at her parental home her husband, father-in-law, mother-in-law and brother-in-law had come there and had abused and assaulted her. In none of these episodes, she has even cursorily referred to applicant No.6 having been involved.

5. Similar is the case with the statements of the witnesses recorded under Section 161 of Cr.P.C. Her brother Kalim, father Rahim Khan, mother Surayya, brother-in-law Shaikh Jahed, sister Hakima have all referred to various episodes corroborating her version in the FIR but even they have not been able to attribute anything against applicant Nos.6's involvement in either demanding the money or subjecting her to cruelty.

6. As is the common experience noticed by the Supreme Court in various cases like ***Preeti Gupta and another Vs. State of Jharkhand and another ; (2010)***

7 Supreme Court Cases 667, Geeta Mehrotra and another Vs. State of U.P. and another ; 2013 AIR (SC) 181, Arnesh Kumar Vs. State of Bihar and another ; AIR 2014 SC 256 and Amit Kapoor Vs. Ramesh Chandra and another ; (2012) 8 SCC 460 and many more, there being usual tendency to rope in all the near as well as distant relations of the husband in proceedings under Section 498-A of the IPC, the application deserves to be allowed to the extent of applicant No.6 against whom there is absolutely no iota of allegations muchless precise and specific. The case squarely falls under Category 1, 3 and 8 of Bhajan Lal's case.

7. The application to the extent of applicant No.6 is allowed. The rule is made absolute in terms of prayer Clause 'B' to his extent. The application to the extent of applicant Nos.1 to 5 is disposed of as withdrawn. The trial Court is directed to conclude the trial within a period of four months from today.

(MANGESH S. PATIL, J.)

(T.V.NALAWADE, J.)

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vmk/-