

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

CRIMINAL APPLICATION NO. 3492 OF 2018

1. Sunita Arjun Pakhare,
Age: 60 years, Occ. Household,
 2. Arjun Bhaurao Pakhare,
Age: 66 years, Occ. Nil,
 3. Nilesh Arjun Pakhare,
Age: 28 years, Occ. Service,
Applicant No.1 to 3 are R/o. Shilphata,
Khopoli, Tq. Khalapur, District Raigad.
 4. Anil Raosaheb Pakhare,
Age: 35 years, Occ. Service,
R/o Surval Heights, Surval Chowk,
MIDC Shirgaon, Badlapur (E),
Badlapur, District Thane.
- ... Applicants

Versus

1. The State of Maharashtra,
Through its Police Inspector
Police Station Shirur (Ka),
District Beed.
 2. Ashwini w/o Ganesh Pakhare (Widow),
Age: 20 years, Occ. Household,
R/o At Present Shivaji Nagar,
Shirur (Ka), District Beed.
- ... Respondents

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Mr. Umakant U. Wagh, Advocate for the Applicants.
Mr. S.J. Salgare, A.P.P. for Respondent no.1-State.
Mr. S.R. Shirsat, Advocate for Respondent No.2.

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

DATE : 24.04.2019

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

Heard. Rule. The Rule is made returnable forthwith. Learned A.P.P. waives service for the respondent no.1. Learned advocate Mr. S.R. Shirsat waives service for the respondent no.2. With the consent of both the sides the matter is heard finally at the stage of admission.

2. After hearing both the sides when this Court expressed its disinclination to grant any relief to the applicant nos.1 to 3, their learned advocate, on instructions, seeks leave to withdraw the application to their extent.

3. The husband of the respondent no.2 died on 25.05.2018. She lodged the F.I.R. on 24.10.2018 which was numbered as 279 of 2018 with Shirur Kasar Police Station, District Beed for the offences punishable under Section 498-A, 323, 504, 506 read with Section 34 of the I.P.C. alleging that after demise of her husband all the applicants subjected her to physical and mental cruelty for the alleged demands including that she should consent for the appointment of the applicant no.3 who is the brother of her husband on compassionate ground. As far as applicant no.4 is concerned she alleged that on 22.08.2018 he along with the other applicants came to her parental home

where she was present and again raised demand for money and also insisted for consent letter for appointment of the applicant no.1 in place of her deceased husband on compassionate ground.

4. The learned advocate for the applicants submits that the applicant no.4 is in fact a cousin brother of the husband of the respondent no.2 and is not residing in the same abode where the other applicants are residing. He is being falsely implicated to wreck vengeance and it is a sheer abuse of process of law and the F.I.R. to his extent may be quashed and set aside.

5. The learned A.P.P. and the learned advocate for the respondent no.2 oppose the application. They submit that the F.I.R. specifically refers to the applicant no.4 particularly in respect of the episode dated 22.08.2018 and the F.I.R. may not be quashed.

6. A careful perusal of the F.I.R. reveals that the only reference as far as the applicant no.4 is concerned can be found in the episode dated 22.08.2018, wherein it has been alleged in an omnibus manner that all the applicants had come to the parental home of the respondent no.2 and raised demand for money and for consent letter. No specific and precise overt act is attributed to the applicant no.4 who is the cousin brother of her husband and residing at a different place. It would be, in our considered view, a sheer

abuse of the process of law if he is made to face the investigation and the possible charge based on such vague and omnibus allegations. The case of the applicant no.4 is squarely covered by the category nos.1, 3 and 7 of the **State of Haryana and Ors. V/s. Bhajan Lal and Ors.; AIR 1992 SUPREME COURT 604.**

7. The application is, therefore, allowed to the extent of applicant nos.4 and the rule is made absolute in terms of prayer Clause-B to his extent.

8. The application is disposed of as withdrawn to the extent of applicant nos.1 to 3 and the rule is discharged to their extent.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]