

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

CRIMINAL APPLICATION NO.3569 OF 2018

1. Jamil Khan Fida Hussain Mewati
Age-62 years, Occ-Labour,
R/o Dharampuri, Bada Chowk,
Juna Mohalla, Taluka-Dharampuri,
District – Dhar (M.P.).
2. Faridabi Jamilkhan Mewati
Age-55 years, Occ-Household,
R/o Dharampuri, Bada Chowk,
Juna Mohalla, Taluka-Dharampuri,
District – Dhar (M.P.)
3. Munnibi Fida Husain Mewati
Age-65 years, Occ-Household,
R/o Dharampuri, Bada Chowk,
Juna Mohalla, Taluka-Dharampuri,
District-Dhar (M.P.)
4. Nafis @ Gaga Jamilkhan Mewati
Age-24 years, Occ-Labour,
R/o Dharampuri, Bada Chowk,
Juna Mohalla, Taluka-Dharampuri,
District – Dhar (M.P.)
5. Shamsunisa @ Happi Rashindkhan Mewati
Age-32 years, Occ-Household,
R/o Sonkanch, District-Dewas (M.P.)
6. Rahilabi Nadimkhan Mewati
Age-28 years, Occ-Household,
R/o Bari Plot, Jhami Chowk,
Amalner, Taluka-Amalner,
District-Jalgaon.

7. Nahidbi Imrankhan Mewati
Age-26 years, Occ-Household,
R/o Devas, Taluka and District-Devas
(M.P.)
8. Ahmedkhan Munirkhan Mewati
Age-55 years, Occ-Labour,
R/o Bari Plot, Jhami Chowk,
Amalner, Taluka-Amalner,
District – Jalgaon.
9. Naushadbi Ahmedkhan Mewati
Age-45 years, Occ-Household,
R/o Bari Plot, Jhami Chowk,
Amalner, Taluka-Amalner,
District – Jalgaon.
10. Sabirkhan Munirkhan Pathan
Age-59 years, Occ-Labour,
R/o Bari Plot, Jhami Chowk,
Amalner, Taluka-Amalner,
District – Jalgaon.
11. Shamshadbi Sabirkhan Mewati
Age-48 years, Occ-Household,
R/o Bari Plot, Jhami Chowk,
Amalner, Taluka-Amalner,
District – Jalgaon.

..APPLICANTS

VERSUS

1. The State of Maharashtra
Through Police Station,
Amalner, Taluka-Amalner,
Dist.-Jalgaon.
2. Shahnajbi Tajammul Husain
Age-22 years, Occ-Household,
R/o Kasali Mohalla, Amalner,
Taluka-Amalner, District-Jalgaon.

..RESPONDENTS

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Mr.G.S. Rane, Advocate for the applicants.
Mr.S.B. Narwade, APP for Respondent/State.
Mr.A.P. Nikam, Advocate for respondent No.2.

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**CORAM: S.S.SHINDE &
R.G. AVACHAT,JJ.
DATE : 25th January, 2019**

JUDGMENT : (Per S.S.Shinde, J.):

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

2. At the outset, learned counsel
appearing for the applicants on instructions
of the applicants, seeks permission to
withdraw the application on behalf of
applicant Nos.1 to 5. Therefore, Criminal
Application of applicant No.1 – Jamil Khan
Fida Husain Mewati, applicant No.2 – Faridabi
Jamilkhan Mewati, applicant No.3 – Munnibi
Fida Husain Mewati, applicant No.4 – Nafis @
Gaga Jamilkhan Mewati and applicant No.5 –

Shamsunisa @ Happi Rashindkhan Mewati, stands dismissed as withdrawn.

3. The brief facts leading to filing of the present Criminal Application, are as under:-

An informant lodged the first information report on 22nd January, 2018, alleging the mental and physical harassment, for unlawful demand of Rs.1,00,000/- after 7 to 8 months of marriage. It is alleged that applicant No.2 took away her golden and silver ornaments. It is also alleged that on 2nd January, 2018, during the meeting of mutual settlement, informant refused to give divorce and therefore, accused No.1 abused and beaten her as well as accused Nos.2 to 12 threatened to kill her and her father. Accused No.1 also threatened to give her

divorce by proclaiming three times Talak. On the basis of the said allegations, the F.I.R. bearing C.R. No.23/2008 came to be registered for the offences punishable under Sections 498-A, 323, 504, 506, 406 read with 34 of the Indian Penal Code against the accused Nos.1 to 12. After completion of investigation, the Charge-Sheet No.77/2018 came to be filed before the Judicial Magistrate, First Class, Amalner on 17th August, 2018. Hence this Criminal Application is filed.

4. Pursuant to the notices issued to the respondents, Mr.A.P. Nikam, learned counsel has caused appearance for respondent No.2.

5. We have carefully perused the allegations in the first information report and also the charge-sheet, and accompaniments

of the charge-sheet.

6. Already Criminal Application in respect of applicant nos.1 to 5 has been withdrawn. So far as applicant Nos.6 to 11 are concerned, there are omnibus and general allegations against them in the first information report. Upon perusal of the material placed on record, applicant nos.6 to 11 are residing at different places and not at the matrimonial home. It appears that applicant No.6 and 8 to 11 reside at Bari plot, Jhami Chowk, Amalner, Taluka Amalner and applicant no.7 resides at Davas (State of M.P.). The matrimonial house of the informant is situate at Dharampuri, Taluka Dharampuri, Dist.Dhar (M.P.). There is no dispute that except the residential place of applicant no.7, the distance between aforesaid matrimonial place and residential places of

applicant nos.6 and 8 to 11 is more than 350 to 400 Kms. Even if the incident quoted on 2nd January, 2018 is considered as it is, it is alleged that all the accused went to the house of parents of respondent No.2 at Amalner for settlement, and accused No.1 got angry and abused respondent no.2 and assaulted her. Therefore, no overt acts are attributed qua applicant nos.6 to 11. There are general allegations which do not constitute alleged offences against them. Even according to the version of the informant in the first information report, all the accused went to the house of parents of informant at Amalner on 2nd January, 2018, so as to settle the dispute. All other allegations about the demand of money or taking out the ornaments of the informant are as against applicant nos.1 to 5, and not against applicant nos.6 to 11.

7. In that view of the matter further continuation of the proceedings on the basis of aforesaid crime and the charge-sheet would be abuse of process of law, and chances of conviction of the present applicants are bleak. In that view of the matter, the continuation of further proceedings as against applicant nos.6 to 11 will be abuse of process of the Court and wastage of the valuable time of the Court.

8. In view of the discussion made hereinabove, we are of the opinion that Application of applicant Nos.6 to 11 deserves to be allowed.

9. Application of Applicant Nos.6 to 11 is allowed. The further proceedings in R.C.C. No.118 of 2018 (State V/s Tajommal Husen

Jamil Khan and others) pending on the file of Judicial Magistrate, First Class, (Court No.1), Amalner, qua applicant No.6 – Rahilabi Nadimkhan Mewati, applicant No.7 – Nahidbi Imrankhan Mewati, applicant No.8 – Ahmedkhan Munirkhan Mewati, applicant No.9 – Naushadbi Ahmedkhan Mewati, applicant No.10 – Sabirkhan Munirkhan Pathan and applicant No.11 – Shamshadbi Sabirkhan Mewati, stands quashed and set aside.

10. Rule made absolute on above terms. The Criminal Application is partly allowed and the same stands disposed of.

[R.G.AVACHAT]
JUDGE

[S.S.SHINDE]
JUDGE

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