

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

CRIMINAL APPLICATION NO.3676 OF 2018

1. Vijay Laxman Chavan,
Age : 37 years, Occ. Service,
r/o. Flat No.304, Ganga Pride,
Shraddha Colony, Canal Road,
Chhatrapati Chowk, Wadi (Bk.),
Nanded
2. Laxman Ramji Chavan,
Age : 55 years, Occ. Agri.,
r/o. Sirmeti, Tq. Kinwat,
Dist. Nanded
3. Genubai Laxman Chavan,
Age : 53 years, Occ. Household,
r/o. Sirmeti, Tq. Kinwat,
Dist. Nanded
4. Sahebrao Lachhuman Chavan,
Age : 50 years, Occ. Service,
r/o. Shahu Nagar,
Dist. Nanded
5. Suman Sahebrao Chavan,
Age : 45 years, Occ. Service,
r/o. Shahu Nagar, Nanded
6. Balwant Laxman Chavan,
Age : 33 years, Occ. Education,
r/o. Room No.805, Hostel No.8,
Chhatrapati Shivaji Maharaj
Hospital and Rajiv Gandhi Medical
College, Kalwa, Thane

7. Surekha Laxman Chavan,
@ Surekha Vicharwant Rathod,
Age : 25 years, Occ. Household,
r/o. Nandigram Society,
Sharda Nagar, Taroda,
Nanded

..Applicants

Vs.

1. The State of Maharashtra,
Through Police Station,
Kadim Jalna, Dist. Jalna
2. Sonali Vijay Chavan,
Age : 30 years, Occ. Household,
r/o. c/o. Shriram Savairam Rathod,
Banjara Niwas, Income Tax Colony,
Jalna

..Respondents

Mr. S.J.Salunke, Advocate for applicants

Mr. K.S.Hoke-Patil, APP for respondent no.1

Mr. V.D.Gunale, Advocate for respondent no.2

**CORAM : S.S. SHINDE AND
R.G. AVACHAT, JJ.**

**RESERVED ON : FEBRUARY 20, 2019
PRONOUNCED ON : APRIL 11, 2019**

JUDGMENT (PER R.G. AVACHAT, J.) :

Rule. Rule made returnable forthwith. Heard
finally with the consent of the parties.

2. This is an application under Section 482 of the Code of Criminal Procedure. The applicants herein seek quashment of the F.I.R., being Crime No.182 of 2018, registered on 25.07.2018 with Kadim Jalna Police Station, Jalna, for the offences punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

3. Heard Mr.S.J.Salunke, learned Counsel for the applicants, Mr.K.S.Hoke-Patil, learned APP for respondent no.1 and Mr.V.D.Gunale, learned Counsel for respondent no.2.

4. Applicant no.1 is husband of the first informant (respondent no.2). Their marriage took place way back in June, 2010. Applicant nos.2 and 3 are parents-in-law of the first informant, while applicant nos.4 to 7 are her in-laws.

5. The allegations in the FIR are that the father of the informant had given applicant no.1

Rs.7,50,000/- as Dowry in the marriage. On marriage, the first informant started residing at her matrimonial home. Her in-laws treated her well for a period of first two months of marriage. Applicant nos.1 to 7, thereafter, started asking her to fetch Rs.15,00,000/- from her father for construction of house at Nanded. They had also asked her not to come for cohabitation unless the demand is fulfilled. The first informant had also been physically harassed. She had, therefore, approached the Police Station in July, 2012. Crime was registered against the in-laws. Thereafter, applicant no.1 had been appointed as a Naib Tahsildar. Therefore, he and other in-laws requested the first informant to withdraw the FIR, since pendency of the crime might have prejudicially affected the applicant no.1's continuation in service as Naib Tahsildar. Applicant no.1 assured the first informant of good behaviour. The first informant, therefore, withdrew that FIR. The applicants, thereafter, treated her well for five to six months.

In July, 2013, the first informant conceived. Thereafter, the applicants again started asking her to fetch Rs.15,00,000/- from her father. They also harassed and illtreated her. During the days of pregnancy, she had not been taken care of. Applicant no.1 would ask her for transfer of her father's agricultural land to his name. He had harassed the first informant over the same. The first informant's father, therefore, transferred his agricultural land in the name of the first informant. Applicant no.1 got enraged thereby since he was expecting the agricultural land to be in his name. Applicant no.1, thereafter, started asking her to get one of her father's bungalows transferred in his name. Since the demand was not fulfilled, applicant no.1 turned the first informant out of house in March, 2016. Efforts for conciliation were made. Applicant no.1 was paid Rs.2,00,000/-. In May, 2018, her cousin brother-in-law – Sahebrao (applicant no.4) and applicant no.1 had been to the house of the first

informant's parents to fetch the balance amount of Rs.3,00,000/-. Since the money was not available, applicant no.1 beat up the first informant. The first informant, had, therefore, no option but to lodge the FIR.

6. Mr.Salunke, learned Counsel for the applicants, would submit that the allegations in the FIR are motivated and concocted. Applicant nos.2 to 7 had all along been residing separately from applicant no.1 and the first informant. The allegations in the FIR are vague. If the applicants are made to face the trial pursuant to false and concocted FIR, it would be an abuse of process of the Court. Learned Counsel, therefore, urged for quashment of the FIR.

7. Learned APP and learned Counsel for respondent no.2 (first informant) reiterated the allegations in the FIR. Both of them also took us through the statements of the persons acquainted with the facts and circumstances of the case. According

to learned Counsel, the allegations in the FIR make out a case against the applicants for investigation. They ultimately urged for rejection of the application.

8. Admittedly, applicant no.1 married the first informant in June, 2010. It appears that he was initially in the police service. Thereafter, he was appointed as Naib Tahsildar. On account of his service, applicant no.1 had all along been away from his parental house. The first informant would reside with him at his service place. As such, it appears that except for a few months after the marriage, the first informant had not been staying along with applicant nos.2 to 7 at her matrimonial home. Applicant nos.5 and 7 are women. Both of them had been staying at their respected matrimonial homes. Applicant no.5 is cousin sister-in-law, while applicant no.7 is sister-in-law of the first informant. The allegations in the FIR, so far as applicant nos.2, 3 and 5 to 7 are concerned, are

general in nature. We do not propose to consider the allegations as regards the illtreatment for the period before the first informant withdrew her previous FIR lodged way back in July, 2012. True, the first informant has come with a case that the applicants persuaded her to withdraw the previous FIR, since applicant no.1 was selected as Naib Tahsildar and pendency of crime against him might have prejudicially affected his continuing in service. Be that as it may, the fact remains that the first informant withdrew the allegations made in the previous FIR dated 28.07.2012. Offence under Section 498-A of the Indian Penal Code is punishable with imprisonment which may extend upto three years. Limitation for taking cognizance of such offence is also three years. Seven years have passed after the previous FIR came to be withdrawn.

9. So far as other allegations in the impugned FIR are concerned, those are general in nature, except against applicant no.1 and applicant no.4.

Applicant no.1 has been attributed with specific instances of the illtreatment and unlawful demand of money. Applicant no.4 is alleged to have accompanied applicant no.1 on 18.06.2018 to the house of the parents of the first informant and made a demand of Rs.3,00,000/-. As such, the allegations in the FIR, *prima facie*, indicate applicant nos.1 and 4 to have been involved in the alleged offences. It is reiterated that the allegations in the FIR against rest of the applicants are general in nature. If the investigation is allowed to continue against applicant nos.2, 3 and 5 to 7, it would necessarily amount to abuse of process of Court. The FIR and consequential investigation, therefore, need to be quashed so far as these applicants are concerned.

10. In the result, we pass following order :-

(i) The application is partly allowed as regards applicant nos.2, 3 and 5 to 7.

(ii) The F.I.R., being Crime No.182 of

2018, registered on 25.07.2018 with Kadim Jalna Police Station, Jalna, for the offences punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act and consequential investigation, is set aside as qua applicant nos.2, 3 and 5 to 7 only.

(iii) The prayer of applicant nos.1 and 4 for quashment of the impugned FIR and consequential investigation, stands rejected.

(iv) Rule is made partly absolute in the above terms.

(v) Observations made herein above are prima facie in nature. Applicant nos.1 and 4 may have their remedy to seek discharge or quashment of charge-sheet, if any.

(vi) The application stands disposed of accordingly.

[R.G. AVACHAT, J.]

[S.S. SHINDE, J.]

kbp