

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

CRIMINAL APPLICATION NO.3746 OF 2018

1. Mahesh S/o Krushna Kapse,
Age 32 years, Occu. Agri.,
2. Kiran @ Vishnu Krushna Kapse,
Age 24 years, Occu. Agri.,
3. Hirabai W/o Krushna Kapse,
Age 55 years, Occu. Household,
4. Krushna S/o Ramrao Kapse,
Age 60 years, Occu. Agri.,

All R/o Potul, Tq. Gangapur,
District Aurangabad.

5. Vaishali Arvind Manal,
Age 30 years, Occu. Household,
6. Arvind S/o Madhukar Manal,
Age 35 years, Occu. Agri.,

No.5 & 6 R/o Gangapur,
Tq. Gangapur, Dist. Aurangabad. ... **Applicants**

Versus

1. The State of Maharashtra,
Through Police Station,
Daulatabad Police Station,
Aurangabad City,
District Aurangabad.
2. Vrushali W/o Mahesh Kapse,
Age 27 years, Occu. Household,
R/o Potul, Tq. Gangapur,
District Aurangabad.

At present R/o Kasabkheda,
Tq. Khultabad,
District Aurangabad.

... **Respondents**

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Mr. Pradeep V. Tapse Patil, Advocate for Applicants.
Mr. P.G.Borade, APP for Respondent-State.
Mr. S.A.Nandure, Advocate for Respondent No.2
(Appointed).

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

DATE : 10.04.2019

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. S.A.Nandure waives service for
Respondent No.2. 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 accused from Crime No.151 of 2018 registered with
Daulatabad Police Station, District Aurangabad for the
offences punishable under Sections 498-A, 323, 504, 506
read with Section 34 of the Indian Penal Code are seeking

quashment of the crime as well as the charge-sheet filed pursuant thereto.

3. Respondent No.2 was married to applicant No.1 on 17.03.2010. She cohabited with him at Maliwada, Ranjangaon Pol and Potul. The couple beget a daughter. Till then she was maintained properly. Thereafter she was subjected to mental and physical cruelty on account of demand for money. She, therefore lodged a complaint with Daulatabad Police Station on 20.09.2014 for a similar crime. When the trial was in progress, in the month of February 2018 there was a compromise and she resumed cohabitation with applicant No.1. She was maintained properly for 15 days but again she was subjected to ill-treatment from 27.02.2018 to 09.06.2018. She was tortured by saying that their family was defamed because of her and they again demanded an amount of Rs.5,00,000/- for construction of house. Applicant No.1 gave her threat and drove her out of the house. Accordingly the FIR was lodged on 21.11.2018 and the crime was registered. In due course of time even the

charge-sheet has been filed.

4. After hearing both the sides when this Court expressed its disinclination to grant any relief to applicant Nos.1 to 4, their learned advocate, on instructions, seeks leave to withdraw the application to their extent.

5. Applicant No.5 is the sister-in-law of Respondent No.2 whereas applicant No.6 is her husband. Perusal of the FIR shows that only at one place, along with the names of the other applicants even the names of applicant Nos.5 and 6 have been mentioned. Conspicuously no specific and precise allegation has been made against them either in demanding money or subjecting Respondent No.2 to cruelty. Even according to Respondent No.2, applicant No.5 is her sister-in-law who is married to applicant No.6 and they have been residing separately.

6. It is further necessary to note that going by the FIR, forgetting the past, the couple had resumed cohabitation in February 2018 and she was driven out on 09.06.2018

and during the intervening period she was allegedly subjected to ill-treatment by demanding money. Still, the FIR has been lodged in the month of November 2018 that is after a lapse of about five and half months. True it is that there could be several reasons for the delay in lodging the report. However, the fact remains that no plausible explanation is attempted to be given in the FIR therefor.

7. Therefore taking into account all these aspects, in our considered view, even if the allegations in the FIR are taken at their face value, the ingredients for constituting the offences cannot be discerned to the extent of applicant Nos.5 and 6. It would be a sheer abuse of process of law if they are made to face the trial based on such vague allegations.

8. The application to the extent of applicant Nos.5 and 6 is allowed in terms of prayer clause 'B'. The application to the extent of applicant Nos.1 to 4 is disposed of as withdrawn. The rule is made absolute in those terms.

9. The fees of the learned advocate Mr. S.A.Nandure appointed to represent Respondent No.2 is quantified at Rs.3,000/- and shall be paid through the High Court Legal Services Authority.

(MANGESH S. PATIL, J.)

(T.V.NALAWADE, J.)

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vmk/-