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

CRIMINAL APPLICATION NO.3834 OF 2018

1. Kundlik Kashinath Todmal,
Age 60 years, Ocu. Agriculture,
2. Rohini Kundlik Todmal,
Age 55 years, Occu. Household
3. Sagar Kundlik Todmal,
Age 25 years, Occu. Agriculture,

All R/o Burha Nagar, Taluka and
District Ahmednagar

... **APPLICANTS**

VERSUS

1. The State of Maharashtra
(Copy to be served on the Public
Prosecutor, High Court of Judicature of
Bombay, Bench at Aurangabad)
2. Janabai Satish Shinde,
Age 40 years, Occu. Agriculture/
Household work, R/o Shinde Vasti,
Devigavhan Shivar, Taluka Ashti,
District Beed.

... **RESPONDENTS**

.....
Shri P.S. Paranjape, Advocate for applicants
Shri A.A. Jagatkar, A.P.P. for respondent No.1/ state
.....

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

Date of reserving judgment : 5th February, 2019

Date of pronouncing judgment : 18th February, 2019

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

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

2. By this application under Section 482 of the Criminal Procedure Code, the applicants seek quashment of the F.I.R., being C.R. No.287/2018, registered with the Ashti Police Station, for the offences punishable under Sections 498-A, 323, 504, 506, 306 read with Section 34 of the Indian Penal Code. Heard Mr. Paranjape, learned counsel for the applicants and Mr. Jagatkar, learned A.P.P. for the State.

3. The learned counsel for the applicants would submit that, it was unfortunate that the applicant No.3's wife committed suicide. According to the learned counsel, no offence is made out from the allegations in the F.I.R. The deceased committed suicide at her parent's home (village). The applicant No.3 had filed an application for restitution of conjugal rights. The applicants were ready and willing to cohabit the deceased. The parents of the deceased did not send her to her matrimonial home. The deceased, therefore, committed suicide. The unfortunate incident could have been averted had the deceased been allowed to resume marital tie. As regards the presumption under Section

1(3)(a) of the Evidence Act, the learned counsel would submit that, it is a presumption of fact. If we consider the averments of the F.I.R. in its totality, no offence is made out. There would, therefore, be no question of presumption being raised. In support of his contention, the learned counsel has relied on the judgment of the Supreme Court in case of **Ramesh Kumar Vs. State of Chhatisgarh** reported in **2001 (4) Crimes 360**.

4. The learned A.P.P., on the other hand, would submit that, the deceased committed suicide within seven years of her marriage. The deceased had been ill-treated and harassed as she did not conceive. The applicants had also made a demand for dowry and since the demand was not met, the deceased had been subjected to ill-treatment. According to the learned A.P.P., this is not a stage at which the F.I.R. could be quashed. The learned A.P.P., ultimately, urged for rejection of the application.

5. Snehal (deceased) had married the applicant No.3 in August 2014. The applicants No.1 and 2 are the parents-in-law of the deceased. The F.I.R. has been lodged by the mother of the deceased. It has been alleged in the F.I.R. that, the applicants had harassed and ill-treated the deceased as she (deceased) did not conceive. She was also ill-treated in connection with a demand of Rs.2,00,000/- for purchase of land. Since the ill-

treatment became unbearable, the father of the deceased had brought her to his home. None of the applicants ever thereafter established contact with the deceased. In the morning of the day on which the deceased committed suicide, she (deceased) was inconsolably weeping. The deceased wanted to go to her matrimonial home. After some time, the deceased committed suicide.

6. It has been specifically alleged in the F.I.R. that, the deceased committed suicide since the ill-treatment meted out to her by the applicants became unbearable. The suicide took place within four years of her marriage. From the allegations in the F.I.R., a case for making investigation into the allegations has been made out. There is record to indicate the deceased to have had filed an application under Protection of Women from Domestic Violence Act. The avements in the application reinforce the allegations in the F.I.R. A presumption as to abetment of suicide, under Section 113-A of the Evidence Act could only be raised on appreciation of evidence in the case. Reliance on the case of Ramesh Kumar (supra) could be of no avail to the applicants at this stage. The observations in Ramesh Kumar's case have been made by the Hon'ble Supreme Court when the matter had reached the Supreme Court on fullfledged trial of the case. On investigation of the crime registered based on the

impugned F.I.R., if the investigating officer found it to be a case of no material, necessary report in that regard may be filed. We need not state that, the applicants are not remedyless if the charge sheet is laid against them. Be that as it may, the allegations in the F.I.R. prima facie make out a case for investigation thereof. The F.I.R., therefore, could not be quashed at the threshold of the investigation. The application, therefore, deserves to be rejected. The application, therefore, fails and the same stands rejected. Rule discharged.

R.G. AVACHAT
JUDGE

S.S. SHINDE
JUDGE

fmp/-