

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

CRIMINAL APPLICATION NO. 427 OF 2019

- 1) Shaikh Sattar Shaikh Habib,
Age; 40 years, Occ; Agril,
R/o; Murumkheda, Tq. & Dist. Aurangabad.
- 2) Begambee Shaikh Habib,
Age; 62 years, Occ; Household,
R/o; As above.
- 3) Shaikh Gaffur Shaikh Habib,
Age; 42 years, Occ; Agril,
R/o; As above.
- 4) Unus Shaikh Habib,
Age; 38 years, Occ; Agril,
R/o; As above.
- 5) Farjana Shaikh Gafur,
Age; 39 years, Occ; Housewife,
R/o; As above.
- 6) Irfana Shaikh Unus,
Age; 32 years, Occ; Housewife,
R/o; As above.

**...APPLICANTS
(Orig. Accused)**

V E R S U S

- 1) The State of Maharashtra
Through P.S. Badanapur,
Tq. & Dist. Jalna.
- 2) Jakera Bee Shaikh Sattar,
Age; 29 years, Occ; Housewife,
R/o; Murumkheda, Tq. & Dist. Aurangabad
Now at Bhavani Nagar, Jalna.

**..RESPONDENTS
(Resp. No. 2 is
Original
Complainant)**

.....
Shri. K.D.Jadhav, Advocate for the Applicants
Smt. K.S.Patil, learned A.P.P.for the Respondent No.1
Shri. A.D.Shinde, Advocate for Respondent No.2
.....

**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**

DATE : 11th FEBRUARY, 2020

JUDGMENT : [PER : M.G. SEWLIKAR, J.]

Rule. Rule is made returnable forthwith. With consent of the parties, heard finally.

2. This is an application filed under Section 482 of the Code of Criminal Procedure, for quashing of the First Information Report, No. 105 of 2018, dated 10.4.2018 registered with Police Station, Badnapur, Dist. Jalna for the offences under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code.

3. Facts giving rise to this application are that the respondent No. 2 married applicant No. 1 on 15.03.2004. The couple has two children out of wedlock. She was maintained well for a period of 11 years by the applicants.

4. The applicant No. 2 is the mother, the applicant Nos. 3 and 4 are the brothers and the applicant Nos. 5 and 6 are the sisters of the applicant No. 1.

5. After 11 years of marriage, the applicants started saying that she should bring Rs. 20,000/- from her mother for their household expenses. She expressed her inability to bring the said amount as her mother is alone and the father has died, but the applicants were not ready to listen. All the applicants abused her, beat her and drove her out of the house on account of non fulfillment of the demand of Rs. 20,000/-. Since then she has been staying with her mother. None from applicants came to take her back for cohabitation. Therefore, she lodged this F.I.R.

6. Heard Shri. K.D.Jadhav, the learned counsel for the Applicants, Shri K.S.Patil, learned A.P.P. for the Respondent No.1 and Shri. A.D.Shinde, the learned counsel for Respondent No.2.

7. Shri Jadhav, the learned counsel for the applicants argued that the applicant Nos. 2 to 6 are living separately from the applicant No. 1. He submitted that they have no connection with the alleged offences. He submitted that even the Ration Card of the applicant No. 1 shows that none of the applicants Nos. 2 to 6 are residing with the applicant No. 1.

8. Shri Patil, the learned A.P.P. for the respondent/State submitted that the allegations are specific in nature, therefore, the offences against the applicants are made out. He submitted that the

respondent No. 2 has been subjected to ill-treatment ,on account of non fulfillment of their demand of Rs. 20,000/-.

9. Since we were not inclined to grant any relief to applicant Nos. 1 and 2, the learned counsel for the applicants sought permission to withdraw the application to their extent.

10. So far as the applicant Nos. 3 to 6 are concerned, the F.I.R. does not show that specific allegations have been made against any of them. It is difficult to fathom that the applicants Nos. 3 to 6 in one voice would demand Rs. 20,000/-. Similarly, no details of the ill-treatment are mentioned so far as the applicant Nos. 3 to 6 are concerned. Vague and omnibus statements are made that the applicant Nos. 3 to 6 abused and beat the respondent No. 2, on account of non fulfillment of their demand of Rs. 20,000/-. No specific act is attributed to the applicant Nos. 3 to 6 nor the details of ill-treatment are given. In view of this, continuation of prosecution against the applicant Nos. 3 to 6 is nothing but an abuse of the process of the Court. Hence the F.I.R. to the extent of the applicant Nos. 3 to 6 will have to be quashed. In view of the above, the following order is passed :

ORDER

- 1) Application to the extent of applicant Nos. 1 and 2 is disposed of as withdrawn.

- 2) Application to the extent of applicants Nos. 3 to 6 is allowed.
- 3) Relief is granted in favour of applicant Nos. 3 to 6 in terms of prayer clause 'B'.
- 4) Fees of the appointed counsel is quantified at Rs. 3,000/- and the same be paid by High Court Legal Services Authority Sub-Committee, Aurangabad.
- 5) Rule is made absolute In those terms.

(M.G. SEWLIKAR, J.)

(T.V. NALAWADE, J.)

mahajansb/