

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

CRIMINAL APPLICATION NO. 929 OF 2020

- 1) Shri Sanket S/o Pandit Powar,
Age; 35 years, Occ; Medical Practitioner,
R/o; Flat No. 2, Narmada Apartment, Opp.
Maruti Mandir Road, Kalpataru River Side,
Old Panvel, Tq. Panvel, District Raigad.
- 2) Shri Pandit S/o Shamrao Powar,
Age; 65 years, Occ; Nil,
R/o; Ganga Bhagyoday Residency,
Kasabawada Rasta, Kolhapur,
District Kolhapur.
- 3) Sau. Savita W/o Pandit Powar,
Age; 60 years, Occ; Household,
R/o; Flat No. 2, Narmada Apartment,
Opp. Maruti Mandir Road,
Kalpataru River Side, Old Panvel,
District; Raigad.
- 4) Shri Baburao S/o Dharmaji Shinde,
Age; 92 years, Occ; Household,
R/o; Rahata, Tq. Rahata,
District; Ahmednagar.
- 5) Sau. Jayashri W/o Rajan Naik,
Age; 55 years, Occ; Household,
R/o; Balewadi, Pune, Tq. & Dist. Pune.
- 6) Sau. Manisha W/o; Manish Pawar,
Age; 53 years, Occ; Household,
R/o; Ganga Bhagyodaya Residency,
Kasba, Bavada Kolhapur,
Tq. & District Kolhapur.

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

V E R S U S

- 1) The State of Maharashtra
Through the Police Inspector,
Shivaji Nagar Police Station,

Beed, District; Beed.

- 2) Dr. Asha W/o Sanket Powar,
Age; 34 years, Occ; Service,
R/o; Shri Laxmi Niwas,
Gramsevak Colony, Balepir,
Nagar Road, Beed Dist.; Beed.

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

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Shri. Bolkar Yogesh B., Advocate for the Applicants
Shri R.B. Bagul, learned A.P.P. for the Respondent No.1
Shri. S.S.Sugdare, Advocate for Respondent No.2
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**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**

DATE : 09/09/2020

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

1. Rule. Rule made returnable forthwith. With the consent of the parties, heard finally at admission stage.
2. Applicants have preferred this application under Section 482 of the Code of Criminal Procedure, (Cr.P.C.) for quashing of the First Information Report, (F.I.R.) No. 26 of 2020, registered with Shivaji Nagar Police Station, Beed, for the offences punishable under Sections 498-A, 323, 504 506 read with Section 34 of the Indian Penal Code.
3. Facts giving rise to this application are that respondent No. 2 (the informant herein) married applicant No. 1 on 28.12.2017. Applicant No. 2 is the father and applicant No. 3 is the mother of applicant No. 1. Applicant No. 4 is the grand father of applicant No. 1.

Applicant Nos. 5 and 6 are the sisters of applicant No. 3.

4. It is alleged by the respondent No. 2 in the F.I.R. that she was maintained well for initial period of the marriage. Thereafter, applicants started insulting her saying that she was unwanted in the house. They used to say her that she should not go to her maternal place and applicants did not allow her to speak with her parents. They used to instigate applicant No. 1 to abandon respondent No. 2 and that respondent No. 2 should not beget any child. They used to say her that she should resign from her job.

5. It is further alleged that after expiry of her leave period, she joined the Government Hospital, Jalna. Applicants and others did not come to her at Jalna, but she used to be called at Panvel at her matrimonial place. Applicant No. 3 did not permit applicant No. 1 and respondent No. 2 to sleep in one bed room. Applicant No. 1 used to say that she keeps on roaming in the night and she had illicit relations with some one. Applicant No. 1 beat her in the presence of his parents at the instigation of applicant Nos. 2 and 3. Respondent No. 2 is vegetarian. Despite this, applicants used to force her to eat non-vegetarian food. They used to insist on her to take loan on the basis of her salary for purchasing a farm house at Kolhapur and upon her refusal, they used to beat her. On 26.6.2019, all the applicants beat her and drove her out of house in the mid-night at 12.00 hours. Since then, she has been staying with her parents. Applicant No. 1 issued

notice to her for divorce. She lodged complaint with Women's Grievance Redressal Cell at Beed on 21.8.2019. On 05.10.2019 she went to matrimonial home to resume co-habitation, however, there was no change in the behaviour of the applicants. They used to abuse and beat her. They used to say to her parents that respondent No. 2 is suffering from some mental disease and they should take her back. On these allegations, F.I.R. was lodged on 10.01.2020, on the basis of which Crime No. 26 of 2020 for the offences punishable under Sections 498-A, 323, 504 506 read with Section 34 of the I.P.C. has been registered.

6. Heard Shri. Bolkar Yogesh B., the learned counsel for the Applicants, Shri R.B. Bagul, the learned A.P.P. for the Respondent No.1 and Shri. S.S.Sugdare, the learned counsel for Respondent No.2.

7. Shri Bolkar, the learned counsel for the applicants submitted that allegations against all the applicants are vague and general in nature. No specific allegations are made against any of the applicants. On the basis of such omnibus allegations, no offence can be made out and therefore, F.I.R. needs to be quashed against all the applicants.

8. The learned APP Shri Bagul for respondent/State and Shri Sugdare, the learned counsel for the respondent No. 2 argued that specific allegations are made against the applicants. Respondent No. 2

has been subjected to severe ill-treatment by all the applicants. She was driven out of the house by the applicants in the mid night. She had to stay at her maternal home with her parents. Therefore, offences punishable under Sections 498-A, 323, 504 506 read with Section 34 of the I.P.C. are clearly made out against all the applicants.

9. So far as applicant Nos. 1 to 3 are concerned, there are specific allegations against them. Therefore, this Court was not inclined to grant any relief to applicant Nos. 1 to 3. When this Court expressed its dis-inclination to grant relief to applicant Nos. 1 to 3, learned counsel for applicant Nos. 1 to 3 sought permission to withdraw the application. Permission was accordingly granted.

10. So far as, applicant Nos. 4 to 6 are concerned, no specific allegations are made out against them. Vague and general allegations are made against applicant Nos. 4 to 6. Therefore, even if, these are taken to be true at their face value, no offence can be said to be made out against applicant Nos. 4 to 6. Therefore, continuation of proceedings against applicant Nos. 4 to 6 would be an abuse of process of law.

11. In the case of **Priti Gupta and Another Vs. State of Jharkhand and Another (2010) 7 SCC 667**, it has been observed by the Hon'ble Supreme Court that there is tendency of implicating the immediate relatives of the husband. In the case at hand, respondent

Nos. 4 to 6 are not residents of place, in which respondent No. 2 and her husband are living. Having regard to this, it would be futile to continue prosecution against applicant Nos. 4 to 6 on the basis of such vague and general allegations. In view of this, we are inclined to quash the F.I.R. to the extent of applicant Nos. 4 to 6, hence the following order :

ORDER

- 1) Application of applicants Nos. 1 to 3 is disposed of as withdrawn.
- 2) Application of applicant Nos. 4 to 6 is allowed.
- 3) Relief is granted to applicant Nos. 4 and 6 in terms of prayer clause 'B'.
- 4) Rule is made absolute in those terms.

(M.G. SEWLIKAR)
JUDGE

(T.V. NALAWADE)
JUDGE