

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

CRIMINAL APPLICATION NO. 1481 OF 2019

- 1) Minakshi Wd./o Ajitrao
Patil,
Age; 62 years, Occ;
Household,
R/o; Dhulpimpri,
Tal. Parola, Dist; Jalgaon.
- 2) Rajashri W/o; Prashant
Surawanshi,
Age; 41 years, Occ; Service,
- 3) Prashant S/o Ashok
Surawanshi,
Age; 46 years, Occ; Service,
- 4) Ashok S/o; Yashwant
Surawanshi,
Age; 77 years, Occ; Nil,
- 5) Usha @ Pratibha W/o; Ashok
Surawanshi,
Age; 75 years, Occ; Nil,

Applicant Nos. 2 to 5 are residents of Roshan Saher, Unit 06, Samarth Colony, Baner Pune, Pune, Tal. & Dist; Pune.

- 6) Shweta W/o; Yogesh Salunke,
Age; 36 years, Occ; Nil,
- 7) Yogesh S/o; Bhanudas
Salunke,
Age; 41 years, Occ; Service,

Applicant Nos. 6 & 7 are residents of C-1, 403, Manish Garden, Ajmera, Pimpri, Pune, Tal. & Dist. Pune.

8) Vijay S/o; Nilkanth Shinde,
Age; 57 years, Occ;
Business,

9) Sangita W/o; Vijay Shinde,
Age; 49 years, Occ;
Household,

Applicant Nos. 8 & 9 are residents of 60, Ramdas Colony, Ramanand, Jalgaon Tq. & Dist. Jalgaon.

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

V E R S U S

1) The State of Maharashtra,
Through the Police Sub
Inspector,
Ramanand Police Station,
Jalgaon,
Tq. & Dist; Jalgaon.

2) Chetana W/o Shekhar Patil,
Age; 30 years, Occ; Service,
R/o; 22/A, Vankatesh Nagar,
Ramanand, Jalgaon,
Tq. & Dist. Jalgaon.

AND

R/o; 702, C Wing, Seven
Floor, Shivshahi Lane,
Dwarka Sai Vendars, Pimpale
Saudagar, Sangvi, Pune, Tq.
& Dist; Pune.

**..RESPONDENTS
(Original
Informant)**

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Shri. Ujjwal S. Patil, Adv. for the Applicants
Shri.R.D.Sanap, learned A.P.P.for the Respdt No.1
Shri. P.S. Gaikwad, Advocate for Respondent No.2

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

DATE : 20th JANUARY, 2020

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

Rule. Rule is made returnable
forthwith. With consent of learned counsel for
both the sides, heard finally.

2. This is an application filed under
Section 482 of the Code of Criminal Procedure,
for quashing of the First Information Report
and the Charge-sheet filed on the basis of it,
in Crime No. 139 of 2019, registered at Police
Station Ramanand, District Jalgaon, for the
offences punishable under Sections 498-A, 323,
504 and 506 r/w Section 34 of the Indian Penal
Code.

3. Facts leading to this application are that Respondent No. 2 married Shekhar Ajit Patil. Applicant No. 1 is the mother-in-law of Respondent No. 2. Applicant No. 2 is the sister-in-law of Respondent No. 2. Applicant No. 3 is the husband of applicant No. 2. Applicant No. 4 is the father of applicant No. 3. Applicant No. 5 is the mother of applicant No. 3. Applicant No. 6 is the sister-in-law of Respondent No. 2. Applicant No. 7 is the husband of applicant No. 6. Applicant Nos. 8 and 9 are mediators.

4. It is alleged that applicant Nos. 1, 2, 5 and 6 would call Respondent No. 2 as beggar. On the next day of the marriage, her husband Shekhar Patil and applicant No. 1 took all the ornaments from her and immediately removed the maid servant. Applicant Nos. 2 to 6 would say to her that she was good for nothing and he used to insult on frivolous grounds. All the applicants started demanding Rs. One Lakh

for the repayment of loan taken by them for purchase of the house. Applicant No. 6 and 7 would abuse on frivolous grounds. Her husband beat her on 27.11.2018 at Mahabaleshwar and would question her whenever she talked on her Cell Phone. She was pregnant from her husband. Accused No. 1 would say that she was not conceived from him. After the birth of her daughter Nabha, none of the applicant came to see her. She had filed a complaint before the Women Redressal Forum at Akurdi.

5. On 8.12.2013 when she had gone for resumption of cohabitation, she and her father were driven out of house. They started demanding Rs. Ten Lakhs to be brought from her parents for the repayment of loan taken for house. Her husband Shekhar, took money from her for purchasing motor car of Maruti Suzuki Company. She was made to pay installments of the said motor Car. She again remained pregnant from her husband. Applicants wanted a baby boy.

Therefore, she was taken to Surat for determination of sex of the fetus, but she declined to do so. On 1.2.2018 she gave birth to a baby girl, Dimpal. On 31.12.2018, applicant No. 1 abused her mother saying 'Madarchod'. On these allegations F.I.R. was registered against the applicants.

6. Heard Mr. Ujjwal S. Patil, learned Counsel for the Applicants, Mr.R.D.Sanap, learned A.P.P. for Respondent No. 1 and Mr. P.S. Gaikwad, learned Counsel for Respondent No.2.

7. On perusal of F.I.R., it is seen that all the allegations are made against applicant No. 1. Applicant No. 2 and her husband applicant No. 3 are in service. Applicant Nos. 4 and 5 are aged about 77 and 75 years. Applicant No. 6 to 9 are the residents of Jalgaon. Applicant No. 3 is the resident of Pune. Applicant Nos. 4 and 5 are residents of

Pune. Applicant No. 8 does not reside at the place of applicant No. 1 and husband of Respondent No. 2. Same is the case with applicant No. 9. Applicant Nos. 8 and 9 are strangers to the family of applicant No. 1.

8. In the affidavit-in-reply, filed by Respondent No. 2 she described applicant Nos. 8 and 9 as mediators. This clearly shows that applicant Nos. 8 and 9 are not from the family of applicant No.1 and the husband of Respondent No. 2. Only those persons who are relatives of husband, can be made accused in prosecution under Section 498-A of I.P.C. The F.I.R. also does not indicate whether applicant Nos. 8 and 9 are the relatives of husband of Respondent No. 2. The allegations made against Respondent Nos. 2 to 9 are general in nature. The Hon'ble Supreme Court in the case of **Kans Raj V/s State of Punjab (AIR 2000 SC 2324)**, has observed that

"there is a growing tendency to implicate near relatives of the husband in dowry cases".

9. In the case at hand the relatives of the husband have been implicated by Respondent No. 2. Similarly, applicant Nos. 8 and 9 who are not relatives of applicant No. 1 have been made as accused. In this view of the matter, since the allegations against applicant No. 1 are specific and the allegations against applicant Nos. 2 to 9 are vague, application to the extent of applicant Nos. 2 to 9 will have to be allowed.

10. During the course of argument the learned Advocate for the applicants sought permission to withdraw the application to the extent of applicant No. 1. He was permitted to do so. Having regard to this following order is passed :

ORDER.

1 The application of applicant No. 1 is disposed of as withdrawn.

2 The application of applicant Nos. 2 to 9 is allowed.

3 Relief is granted to applicant
Nos. 2 to 9 in terms of prayer
Clauses (A) & (A-a).

4 Rule is made absolute, in those
terms.

(M.G. SEWLIKAR, J.)

(T.V. NALAWADE, J.)

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