

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

CRIMINAL APPLICATION NO. 1622 OF 2019

1. Suman s/o Babruwan Gire,
Age: 60 years, Occu: Household,
R/o Bale, Tq. North Solapur,
Dist. Solapur.
2. Babruwan Ramchandra Gire,
Age: 65 years, Occu: Nil,
R/o as above.
3. Shilpa Anil Joshi,
Age: 37 years, Occu: Medical Practitioner,
R/o Sangamner, Tq. Sangamner,
Dist. Ahmednagar.
4. Reshma w/o Nitin Tigade,
Age: 36 years, Occu: Service,
R/o Pune Airport, Katraj,
Pune, Dist. Pune.
5. Anil s/o Sahebrao Joshi,
Age: 38 years, Occu: Medical Practitioner,
R/o Sangamner, Tq. Sangamner,
Dist. Ahmednagar.
6. Nitin s/o Rajendra Tigade,
Age: 38 years, Occu: Private Service,
R/o Pune Airport, Katraj,
Pune, Dist. Pune.

.. **Applicants**

Versus

1. The State of Maharashtra
Through Vivekanand Chowk
Police Station, Latur.

2. Priyanka w/o Chetan Gire,
27 years, Occu: Service,
R/o Saurabh Niwas, Sneha Nagar,
Old AUSA Road, Latur,
Tq. & Dist. Latur.

.. Respondents

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Mr. G.V. Patil, Advocate for the applicants.
Mr. R.B. Bagul, APP for the respondent-state.
Mr. V.S. Kadam, Advocate for respondent no.2.

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**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**
DATE : 09.03.2020

JUDGMENT :- (Per: *M.G. Sewlikar, J.*)

Rule. The Rule is made returnable forthwith. Learned A.P.P. and the learned advocate for the respondent no.2 waived service. With the consent of both the sides the matter is heard finally at the stage of admission.

2. This is an application under Section 482 of the Cr.P.C. seeking inherent powers of this Court for quashing Crime No. 96 of 2019 dated 21.03.2019 for the offences punishable under Section 498-A, 504 read with Section 34 of the I.P.C. registered with Vivekanand Chowk Police Station, Latur. Facts giving rise to this petition are that respondent no.2 married one Chetan Gire on 02.02.2017 who is the son of applicant nos.1 and 2. Applicant nos.3 and 4 are the sisters of the said Chetan Gire, applicant no.5 is the husband of applicant no.3, applicant no.6 is the husband of applicant no.4.

3. It is alleged in the F.I.R. that respondent no.2 was maintained well by the applicants and her husband Chetan Gire. Thereafter, all the applicants started saying that behaviour of respondent no.2 was not good. They used to pass sarcastic remark at her. They used to keep her starved. Respondent no.2 has further alleged in the F.I.R. that her marriage has not been consummated. The said Chetan Gire always avoided sexual intercourse with the respondent no.2. When her husband Chetan Gire and respondent no.2 were living at Mira Road, New Mhada Colony, Mumbai her husband started demanding Rupees One Lakh for purchasing a flat. Therefore, father of respondent no.2 transferred Rupees One Lakh in March-2017 by RTGS. Despite that, there was no respite for the respondent no.2. The applicants continued to harass her. Applicant nos.3 and 4 always used to say that her father did not honour them properly in the marriage. They used to say that she is not good looking. In the month of March-2018, her father, mother and brother Sourabh had been to Mumbai to convince her husband Chetan Gire but her husband again demanded Rupees Five Lakhs for purchasing a flat. When her parents and brothers expressed their inability to pay such a huge amount the said Chetan Gire insulted them and drove them out of the house. Respondent no.2 fell ill owing to which she came back to her parents on 20.04.2018 and since then she has been staying there. On 07.12.2018 at

about 12.30 pm applicant nos.2, 3, 4 and 6 went to Latur to her maternal place. They represented to the respondent no.2 that her husband Chetan Gire has undergone a surgery and now he is hale and hearty. However, respondent no.2 would be maintained only when Rupees Five Lakhs is paid. When her parents expressed their inability to pay the amount of Rupees Five Lakhs, the applicants went away abusing and insulting respondent no.2 and her parents. Therefore respondent no.2 lodged the F.I.R. on 21.03.2019.

4. Heard Shri B.V. Patil learned counsel for the applicants and Shri R.B. Bagul the learned APP for the respondent-State and Shri V.S. Kadam learned counsel for the respondent no.2.

5. Shri Patil submitted that there is inordinate delay in lodging the F.I.R. According to respondent no.2 she left her matrimonial place on 20.04.2018 but the F.I.R. came to be lodged on 21.03.2019. Thus there is delay of almost one year in lodging the F.I.R. but no explanation is forthcoming for the same. Applicant nos.3 and 5 are the Medical Practitioners and they are staying at Sangamner, District Ahmednagar. They have no connection with the alleged ill-treatment. He has further contended that omnibus and vague allegations are made against the applicants. From the F.I.R. commission of any cognizable offence is not disclosed.

6. The learned APP and the learned counsel for respondent no.2 argued that specific allegations have been made against all the applicants. Her husband is impotent and had no physical relation with the respondent no.2. Impotency of the husband of respondent no.2 has been suppressed by the applicants. Therefore commission of cognizable offence is made out against the applicants.

7. Respondent no.2 has been alleging that her husband has not kept any physical relation with her since the date of her marriage. According to her, her husband is impotent. She had filed an application on 28.06.2018 with the Womens Redressal Cell at Latur making similar allegations against her husband. Respondent no.2 has been making specific allegations against her husband alleging that her husband is impotent. From the allegations made in the F.I.R. it appears that despite knowing the impotency of husband, applicant nos.1 and 2 got said Chetan Gire married with respondent no.2. Having regard to this applicant nos.1 and 2 are not entitled to quashment of the F.I.R. Sensing the disinclination of this Court to grant any relief to the applicant nos.1 and 2, learned counsel for the application Shri Patil sought permission to withdraw the application to the extent of applicant nos.1 and 2.

8. So far as applicant nos.3 to 6 are concerned, applicant nos.3 and 5 are the Medical Practitioners and they are staying at Sangamner, District Ahmednagar. This position has been made clear by the charge-sheet itself. In the charge-sheet applicant nos.3 and 5 are shown to be the residents of Sangamner, District Ahmednagar. Similarly, applicant nos.4 and 6 who are wife and husband are shown to be residents of Tuljapur, District Osmanabad and at present they are staying at Santosh Nagar, Katraj, Pune. Therefore, it is difficult to accept that they were parties to the alleged ill-treatment having regard to the fact that all of them are living in different cities. Moreover, allegations made against the applicant nos.3 to 6 are vague and general in nature. On the basis of these omnibus allegations, it cannot be said that any cognizable offence is made out against the applicants. From the tenor of the F.I.R., commission of cognizable offence by the applicants nos.3 to 6 is not disclosed. In this view of the matter, we are inclined to quash the F.I.R. to the extent of applicant nos.3 to 6. Hence following order is passed:

ORDER

- I. Application to the extent of applicant nos.3 to 6 is allowed and the rule is made absolute to their extent in terms of prayer clause-BB.

- II. The application to the extent of applicant nos.1 and 2 is disposed of as withdrawn and the rule is discharged to their extent.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]