

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

CRIMINAL APPLICATION NO. 1823 OF 2019

- 1) Nitin s/o Devrao Somware,
Age: 30 years, Occ. Service
- 2) Vandana Bai w/o Devrao Somware,
Age: 60 years, Occ. Housewife
- 3) Devrao s/o Mariba Somware
Age: 67 years, Occ. Nil
- 4) Kanchan d/o Devrao Somware,
Age: 24 years, Occ. Education
- 5) Sachin s/o Devrao Somware,
Age: 28 years, Occ. Private job,
R/o. Applicants no.1 to 5
Kalina Kolivari Village,
Charli Chawl, Near Rammandir,
Kalina Vidyanagari, Mumbai-28.
- 6) Raju s/o Chandar Gonare
Age: 29 years, Occ. Private Job,
R/o. Hokarna, Tq. Mudkhed,
Dist. Nanded.
- 7) Jyoti Raju Gonare
Age: 21 years, Occ. Household,
R/o. Hokarna, Tq. Mudkhed,
Dist. Nanded.

... Applicants

Versus

1. The State of Maharashtra,
Through Police Station Naygaon,
Nanded, Tq. & Dist. Nanded.

2. Kalyani Nitin Somware,
Age: 23 years, Occu.
R/o. Mahatma Phule Colony,
Naigaon Bazar, Tq. Naigaon (Khairgaon)
Dist. Nanded.

... Respondents

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Mr. R.S. Deshmukh h/f. G.G. Suryawanshi, Advocate for the Applicants.
Mr. S.G. Sangle, A.P.P for Respondent-State.
Mr. P.P. Mandlik, Advocate for Respondent No.2.

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**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**
DATE : 13.02.2020

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 seeking the relief of quashment of F.I.R. and the charge-sheet. The applicants are the accused in Crime No. 11 of 2019 registered with Naigaon Police Station, Aurangabad for the offences punishable under Section 498-A, 323, 504, 506 read with Section 34 of the I.P.C. Facts giving rise to this application are as under:

3. The respondent no.2 married the applicant no.1 on 25.03.2015. The applicant no.2 is the mother, applicant no.3 is the father, applicant no.4 is the unmarried sister and applicant no.5 is the brother of applicant no.1.

Applicant no.6 is the cousin of applicant no.1, applicant no.7 is the wife of applicant no.6.

4. It is alleged in the F.I.R. that after marriage the respondent no.2 started co-habiting with the applicant no.1 in Mumbai. She was maintained well for some days after marriage. Thereafter all the applicants started insulting her and started passing sarcastic remarks at her and calling her a bad cook and that she was not good looking. They would ask her to bring motorcycle from her father. They would give her stale food to eat and sometimes they would keep her without food. Applicant no.4, the unmarried sister of applicant no.1, used to sleep in the bed room of the respondent no.2 and would not allow respondent no.2 to study and would pass sarcastic comments at her saying that her parents are beggars and that she did not deserve applicant no.1 as her husband. On 22.10.2017 all the applicants abused her for not bringing motorcycle from her father and for not bringing Rupees Fifteen Lakhs from her father for purchasing a flat. They also used to accuse her of infidelity. On 22.10.2017, she was driven out of the house. On these allegations she lodged F.I.R. on 03.02.2019 in Naigaon Police Station, Nanded.

4. Heard Shri R.S. Deshmukh the learned counsel for the applicants, Shri S.G. Sangle the learned A.P.P. for the State and Shri Mandlik the learned

counsel for the respondent no.2.

5. Shri Deshmukh the learned counsel submitted that the applicant no.1 filed divorce proceeding and thereafter the respondent no.2 filed this F.I.R. Thus the F.I.R. is filed with an ulterior motive. No such incident as alleged has happened. He alleged that allegations against the applicants are vague and commission of any cognizable offence cannot be made out. He therefore prayed for quashing of the F.I.R. against all the applicants.

6. Shri Mandlik the learned counsel for the respondent no.2 submitted that the allegations against all the applicants are specific. He submitted that all the applicants subjected respondent no.2 to ill-treatment on account of their unlawful demand of motorcycle and flat. He submitted that the application deserves to be dismissed in limine.

7. During the course of arguments, when the learned counsel for the applicants realised that this Court was not inclined to grant relief to applicant nos.1 to 5 he sought permission to withdraw the application to their extent. Permission was accordingly accorded.

8. On perusal of the charge-sheet it is seen that the applicant nos.6 and 7 are the residents of Hokarna, Tq. Mudkhed, District Nanded. The charge-sheet further shows that applicant nos.1 to 5 are the residents of Charli

Chawl, Kolivari Village, Kalina, Santacruz (E), Mumbai. This clearly shows that the applicant nos.6 and 7 are not living with applicant nos.1 to 5. Allegations against them are also vague. On the basis of these allegations, it cannot be said that commission of any cognizable offence is made out. There is a growing tendency in cases of dowry to implicate the distant relatives and also the relatives not staying with the husband and parents. In the case at hand also applicant nos.6 and 7 are living far off from Mumbai i.e. in Nanded District. It will be a futile exercise if the applicant nos. 6 and 7 are required to face the trial. In this view of the matter following order is passed:

ORDER

- I. Application to the extent of applicant nos.6 and 7 is allowed and the rule is made absolute to their extent in terms of prayer clause-B.
- II. The application to the extent of applicant nos.1 to 5 is disposed of as withdrawn and the rule is discharged to their extent.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]