

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

CRIMINAL APPLICATION NO. 2312 OF 2019

1. Lilakant Shamrao Pawar
Age: 31 years, Occ. Service,
R/o Peth, Dist. Nashik.
2. Sindhu Shamrao Pawar
Age: 52 years, Occ. Household,
R/o Malusare Housing Society
Ghodymal, Pimpalner, Tq. Sakri,
Dist. Dhule.
3. Rajashri Sunil Thakre,
Age: 33 years, Occ. Service,
R/o Shrilaxmi Duplex No.1,
Mumbai-Agra Road, Panchavati,
Nashik, Tal and Dist. Nashik.
4. Kalpana Shriram Gavit,
Age: 32 years, Occ. Service,
R/o House No.3126, Kanya Nagar,
Pimpalner, Tq. Sakri, Dist. Dhule.
5. Shriram Amarsing Gavit
Age: 42 years, Occ. Service,
R/o House No.3126, Kanya Nagar,
Pimpalner, Tq. Sakri, Dist. Dhule.
6. Hemlata Shivaji Gavali,
Age: 27 years, Occ. Household,
R/o Karuna Nivas, Yashila Park,
Kagal, Tq. Kagal, Dist. Kolhapur.

... **Applicants**

Versus

1. The State of Maharashtra,
Through its Pimpalner Police Station,
Tq. Sakri, Dist. Dhule.

2. Harshda Lilakant Pawar,
Age: Major, Occ. Household,
R/o. C/o Bhila Shamu Gangurde,
Survey No.1/1/1/, Road No. A-3,
Krushna Colony, Dighi,
Pune.

... Respondents

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Mr. Harshal Prakash Randhir, Advocate for the Applicants.

Mr. K.S. Patil, A.P.P. for Respondent no.1-State.

Mr. V.P. Narwade, Advocate for Respondent No.2.

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**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.
DATE : 21.01.2020**

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 waives service. With the consent of both the sides the matter is heard finally at the stage of admission.

2. This is an application for quashing of the F.I.R. The application arises on the following facts:

3. The applicant no.1 is the husband of the respondent no.2. Their marriage was solemnized on 22.05.2017. For a few days after marriage she was treated well. Thereafter on 25.05.2017 she fell ill, for the treatment of which Rs.10,000/- were spent. Thereafter her father in law Shamrao Pawar started saying that dowry was not paid in the marriage. Her sister in laws i.e.

applicant nos.3 and 4, when they had come to their maternal place at the time of Diwali and applicant nos.2 to 4 started calling she was a bad cook and used to pass insulting remarks at her. In the month of August-2017 she remained pregnant. In the month of September-2017 her sister in law applicant no.3 called up applicant no.1 her husband and said something owing to which applicant no.1 said to the respondent that she should terminate the pregnancy. A quarrel ensued between applicant no.1 and respondent no.2. She was asked to take some pills for termination of pregnancy. She was threatened by applicant nos.3 and 4 that if she refused to take pills she would not be allowed to co-habit. Therefore, she took those pills and on the same night she had abdominal pain. She requested all the applicants to take her to the hospital but nobody paid any attention to her. After some days, she realised that her pregnancy was terminated. Her parents in law started demanding Rupees One Lakh for purchasing a flat to be brought from her parents. On 23.03.2018 applicant no.1 under the influence of liquor beat her. On the next day the applicant no.1 dropped her to her maternal place and went away. Since then she has been staying with her parents. She filed the F.I.R. against the applicants on 10.05.2019 on the basis of which offence punishable under Section 498-A, 313, 323, 504, 506 read with Section 34 of the I.P.C. has been registered against the applicants in Pimpalner Police Station.

4. The applicant no.1 is her husband, applicant no.2 is the mother in law of respondent no.2, applicant nos.3 and 4 are the sisters of the applicant no.1, applicant no.5 is the husband of applicant no.4 and applicant no.6 is the sister of applicant no.1.

5. During the course of arguments the learned counsel for the applicants sought permission to withdraw application to the extent of applicant nos.1 and 2 as the Court was not inclined to give relief to them.

6. On perusal of the F.I.R. it is seen that allegations against applicant nos.3 to 6 are vague in nature. No specific overt act is attributed to any of the applicant nos.3 to 6. It is vaguely alleged that demand of Rupees One Lakh was made for purchasing a flat. Similarly vague allegations are made that she was asked to take pills for termination of pregnancy. On the basis of these vague and omnibus allegations it cannot be said that commission of cognizable offence is disclosed against the applicant nos.3 to 6. The applicant no.1 is a resident of Nashik and he is serving there. Applicant no.3 is a Teacher at Nashik, her residential address is not that of the applicant no.1. Applicant no.3 is a resident of Navapur, District Nandurbar as per the election identity card. She is also a Teacher. Applicant no.5 is the husband of applicant no.4 and he is the resident of Pimpalner. Ration card of applicant no.6 is produced which shows that she is the resident of Kagal, District

Kolhapur. From this it is evident that the applicant nos.3 to 6 have been arrayed as accused despite they being residents of a place different from the matrimonial place of applicant no.1 and respondent no.2. As observed by the Hon'ble Supreme Court in the case of **Kans Raj V/s. State of Punjab; AIR 2000 SC 2324** there is a growing tendency to implicate near relatives of the husband. Omnibus and vague allegations of ill-treatment are made against the applicant nos.3 to 6 and on the basis of these allegations commission of any cognizable offence cannot be said to be made out. Their case is squarely covered by the case of **State of Haryana and Ors. V/s. Bhajan Lal and Ors.; AIR 1992 SUPREME COURT 604**. Therefore if the applicants are required to face the prosecution it will be an exercise in futility. In this view of the matter 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-B.
- 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.]