

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

CRIMINAL APPLICATION NO. 3199 OF 2019

- 1) Avinash s/o Vijayrao Udge,
Age; 28 years, Occ; Service,
R/o; Mayur Park, Maruti Nagar,
Harsool, Aurangabad.
- 2) Vijayrao Janardhan Udge,
Age; 72 years, Occ; Retired,
- 3) Alka Vijayrao Udge,
Age; 65 years, Occ; Household,

Both R/o; H. No. 163, N-9,
Pratapgad Nagar,
Shivneri Colony, Aurangabad.
- 4) Diliprao Janardhan Udge,
Age; 65 years, Occ; Retired,
- 5) Nilima Diliprao Udge,
Age; 60 years, Occ; Household,

Both R/o; Flat No. B-7,
Disha Sankul,
Garkheda, Aurangabad.
- 6) Renuka Vijayrao Udge,
Age; 26 years, Occ; Education,
R/o; Doctor's quarter,
Seth Tarachand
Ramnath Dharmarth Ayurvedi
Ruganalaya Rasta Peth, Pune.
- 7) Amit Vijayrao Udge,
Age; 37 years,
Occ; Legal Practitioner,
R/o; H. No. 263, N-9,
Pratapgad Nagar,
Shivneri Colony, Aurangabad.

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

V E R S U S

- 1) The State of Maharashtra
Through its Police Inspector,
Nanalpeth Police Station,
Tq. and Dist. Parbhani.
- 2) Varsha w/o Avinash Udge,
Age; 28 years, Occ; Household,
R/o; C/o; Nitin Pralhad Katte,
Peth Mohalla Galli,
Nanalpeth, Shivaji Chowk
Behind Ganesh Medical, Parbhani,
Tq. & Dist. Parbhani.

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

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Shri. N.D.Sonwane, Advocate for the Applicants
Smt. R.V.Dashalkar, learned A.P.P.for the Respondent No.1
Shri. S.B. Kadu, Advocate for Respondent No.2
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**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**

DATE : 24th FEBRUARY, 2020

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

Rule. Rule is made returnable forthwith. With consent of the parties, heard finally.

2. This is an application filed under Section 482 of the Code of Criminal Procedure, for quashing of the First Information Report, No. 194 of 2019, registered with Police Station, Nanalpeth, Parbhani, Dist. Parbhani for the offences under Sections 498-A, 504 read with Section

34 of the Indian Penal Code and under Section 3 and 4 of the Dowry Prohibition Act.

3. Facts giving rise to this application are that the respondent No. 2 is the wife of the applicant No. 1. The applicant No. 2 is the father, the applicant No. 3 is the mother of applicant No. 1, the applicant No. 4 is the brother of the applicant No. 2. The applicant No. 5 is the wife of applicant No. 4, the applicant No. 6 is the sister of the applicant No. 1. The applicant No. 7 is the brother of the applicant No. 1.

4. The marriage of the respondent No. 2 and the applicant No. 1 was solemnized on 18.6.2018. She was maintained well by the applicants for some days after the marriage. All the applicants were living together. The applicant No. 7 used to say that the respondent No. 2 could not cook the food properly and used to pickup quarrels with her. The applicant Nos. 1 to 6 also used to say that the respondent No. 2 was not good looking. The applicant No. 7 used to assault her. The applicants used to say to her that she should bring Rs. 10,00,000/-, from her parents for developing a Gymnasium when she had gone to her maternal place for the festival of Panchami. When she came back the applicants refused to take her back in their house for cohabitation, saying that she did not bring money from her parents. On all these allegations she filed F.I.R. on 30.5.2019. On the basis of which offence

under Section 498-A, 504 r/w 34 of the Indian Penal Code and under Section 3 and 4 of the Dowry Prohibition Act has been registered against the applicants.

5. Heard Shri. N.D.Sonwane, learned Counsel for the Applicants, Shri. R.V. Dashalkar, learned A.P.P. for the Respondent No.1 and Shri S.B. Kadu, learned Counsel for Respondent No.2.

6. Shri Sonwane, learned counsel for the applicants argued that allegations against the applicants are general in nature. No specific act is attributed to any of the applicants. He further submitted that on the basis of these omnibus allegations no offence can be said to have been made out against the applicants.

7. Shri Dashalkar, learned A.P.P. for the respondent State and Shri Kadu, the learned counsel for the respondent No. 2, argued that specific allegations are made against the applicants and the overt acts are also attributed against all the applicants, therefore, F.I.R. cannot be quashed.

8. On perusal of the papers, it is seen that the applicant Nos. 1 to 3 and 7 are residing together. Having regard to their role in the harassment to the respondent No. 2, we are not inclined to allow the application to the extent of the applicant Nos. 1 to 3 and 7. Therefore,

Shri Sonwane, the learned counsel for the applicants sought permission to withdraw the application to the extent of the applicant Nos. 1 to 3 and 7.

9. On perusal of the papers it is seen that no specific act is attributed to any of the applicant Nos. 4 to 6. Omnibus allegations are made against the applicant Nos. 4 to 7. It is difficult to fathom that the applicant Nos. 4 to 6 would have harassed the respondent No. 2 for the demand of Rs. 10,00,000/- in one voice. Therefore, on the basis of these omnibus allegations, it cannot be said that the commission of any cognizable offence is made out against the applicant Nos. 4 to 6. Therefore, we are inclined to grant relief to the applicant Nos. 4 to 6 only. Hence the case of the applicant Nos. 4 to 6 is squarely covered by the parameters laid down by the Hon'ble Supreme Court in the case of "**State of Haryana and Ors. V/s. Ch. Bhajan Lal and Ors; AIR 1992 Supreme Court 604**". In this view of the matter, if prosecution is allowed to be continued, it would be nothing but an exercise in futility. Hence the following order is passed :

ORDER

- 1) Application to the extent of applicant Nos. 1 to 3 and 7 is disposed of as withdrawn.
- 2) Application to the extent of the applicant Nos. 4 to 6 is allowed.
- 3) Relief is granted to them in terms of prayer

clauses 'A' and 'AA'.

- 4) Rule is made absolute In those terms.

(M.G. SEWLIKAR, J.)

(T.V. NALAWADE, J.)

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