

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

CRIMINAL APPLICATION NO. 3274 OF 2019

- 1) Prakash Somnath Kode,
Age; 35 years, Occ; Teacher,
R/o; Devtala, Tq. Ausa,
Dist; Latur.
- 2) Somnath Trimbakappa Kode,
Age; 59 years, Occ; Nil,
R/o; Javalga Post-Kharola,
Tq. Renapur, Dist. Latur.
- 3) Parvatibai w/o Somnath Kode,
Age; 53 years, Occ;
Household,
R/o; Javalga, Post; Kharola,
Tq. Renapur, Dist; Latur.
- 4) Shivhar Somnath Kode,
Age; 32 years, Occ;
Business,,
R/o; Plot NO. 25/19, Koyana
Nagar,
Near Krishna Mandir,
Chinchwad, East Pune,
Maharashtra.
- 5) Namita w/o Shivhar Kode,
Age; 30 years, Occ; Service,
R/o; Plot No. 25/19, Koyana
Nagar, Near Krishna Mandir,
Chinchwad, East Pune,
Maharashtra.

6) Babasaheb Raosaheb Kharabe,
Age; 48 years, Occ;
Agriculture,
R/o; Kolpa, Tq. & Dist.
Latur.

7) Kakasaheb Madhavrao Birajdar
(Khot),
Age; 53 years, Occ;
Agriculture,
R/o; Chincholi Tapse, Dist.
Ausa, Dist; Latur.

...Applicants

V E R S U S

1) The State of Maharashtra,
Through; Police Station
Incharge,
Killari Tq. Ausa, Dist;
Latur.

2) Sanjivni Prakash Kode,
Age; 31 years, Occ;
Household,
R/o; Lamjana, Tq. Ausa, Dist; ..Respondents
Latur.

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Mr. F.K.Patel, Advocate for the Applicants
Mrs. V.S. Chaudhary, A.P.P. for the Respt. No.
1/State
Mr.A.T. Jagtap, Advocate for Respondent No. 2
(appointed)
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**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**

DATE : 09th JANUARY, 2020

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

This is an application filed under Section 482 of the Code of Criminal Procedure (For short 'Cr.P.C.), for quashing of the First Information Report (In short "F.I.R."), in Crime No. 137 of 2019, registered at Police Station, Killari, Tq. AUSA, District Latur, for the offences punishable under Sections 498-A, 323 and 504 and 506 r/w Section 34 of the Indian Penal Code (In short 'I.P.C.')

2. Facts giving rise to this application are as under :

Respondent No. 2/Informant is the wife of applicant No. 1. Her marriage was solemnized on 3.05.2010. Applicant and respondent No. 2 have a son and a daughter out of the wedlock. After 4 years of the marriage, applicant no. 1 started ill-treating respondent No. 2, saying that she should bring Rs. Five

lacs from her parents, for purchasing a plot at Latur. At the intervention of her parents, applicants assured to maintain respondent No. 2 well. However, after three to four months, again ill-treatment started. Applicant No. 1 used to demand divorce on the ground that he did not like respondent No. 2. She would be put to starvation and used to be beaten on flimsy grounds. In the year 2017, she was driven out of house, at her village to bring Rs. Five lacs for purchasing a plot at Latur. Therefore, she filed this F.I.R. against applicants, on the basis of which crime under aforesaid sections has been registered.

3. Applicant No. 1 is the husband of respondent No. 2, applicant Nos. 2 and 3 are the parents of applicant No. 1, applicant No. 4 is the brother of applicant No. 1, applicant No. 5 is the wife of applicant No. 4, applicant No. 6 is the maternal uncle of applicant No. 1 and applicant No. 7 is the stranger to the

family of applicant No. 1.

4. During the arguments, learned counsel for applicants sought permission to withdraw applicatiohn to the extent of applicant Nos. 1 to 3. He was permitted to do so.

5. Heard, Mr. F.K.Patel, learned counsel for the Applicants, Mrs. V.S. Chaudhary, learned A.P.P. for the Respondent No. 1/State & Mr.A.T. Jagtap the learned counsel for respondent No. 2.

6. On perusal of papers it is seen that applicant No. 4 is the resident of Chinchwad, Pune, Dist; Pune, applicant No. 4 has produced the Adhar Card to that effect. Applicant No. 5 is the wife of applicant No. 4 is also resident of Chinchawad, Pune, Dist; Pune. Applicant No. 6 is the maternal uncle of applicant No. 1. Kakasaheb Birajdar is shown to be the uncle of applicant No. 1.

7. So far as applicant Nos. 4 to 7 are concerned, no specific allegations are made against them. The only allegation against them is that they would instigate the applicant No. 1 to pressurize respondent No. 2 to bring Rs. Five lacs from her parents and beat her on that count. Specific allegations are only against applicant Nos. 1 to 3. On the basis of these vague allegations, it cannot be said that the commission of any cognizable offence is made out against applicant Nos. 4 to 7. In **Kans Raj V/s State of Punjab (AIR 2000 SC 2324)**, it has been held that

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

The continuation of prosecution on the basis of such vague allegations would be an abuse of the process of the Court. As per Adhar Card applicant No. 7 is shown to be the resident of AUSA Chincholi Tapse, Tq. AUSA, Dist; Latur. Therefore, the F.I.R. to the

extent of applicant Nos. 4 to 7 will have to be quashed. Hence following order :

ORDER.

- 1 Application of applicant Nos. 1 to 3 is disposed of as withdrawn.
- 2 Application of applicant Nos. 4 to 7 is allowed. The relief is granted to applicant Nos. 4 to 7 in terms of prayer clauses (A).
- 3 Rule is made absolute, in those terms.
- 4 An amount of Rs.3,000/- (Rs. Three Thousand) be paid by the Legal Services Sub Committee, High Court Aurangabad, to Advocate Mr. A.T. Jagtap, appointed on behalf of Respondent No. 2, in this matter.

(M.G. SEWLIKAR, J.) (T.V. NALAWADE, J.)

mahajansb/