

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

CRIMINAL APPLICATION NO. 3302 OF 2019

- 1) Vandana w/o Vijay Warkad,
Age; 42 years, Occ; Service,
R/o; Mukhed, Tq. Mukhed
Dist. Nanded.
- 2) Vijay s/o Ganpatrao Warkad,
Age; 45 years, Occ; Service,
R/o; Mukhed, Tq. Mukhed,
Dist. Nanded.
- 3) Alka w/o Mahadeo Kalyane,
(Wrongly mentioned as Madhavrao in
F.I.R.)
Age; 49 years, Occ; Household,
R/o; Renuka Enclave, D-6, Darga Road,
Swanand Nagar, Aurangabad,
Tq. & Dist. Aurangabad.
- 4) Mahadeo s/o Bapurao Kalyane,
(Wrongly mentioned as Nagnath
Madhavrao Kalyane in F.I.R.)
Age; 55 years, Occ; Service,
R/o; Renuka Enclave, D-6, Darga Road,
Swanand Nagar, Aurangabad,
Tq. & Dist. Aurangabad.
- 5) Rekha w/o Nagnathrao Patil
(Wrongly mentioned as Surekha in F.I.R.)
Age; 52 years, Occ; Household,
R/o; H-3, 302, Harsha Paradise,
Nagras Road, Aunth, Pune City,
Ganesh Khind, Pune.
- 6) Nagnathrao s/o Hanmantrao Patil,
Age; 68 years, Occ; Pensioner,
R/o; H-3, 302, Harsha Paradise,
Nagras Road, Aunth, Pune City,
Ganesh Khind, Pune.

- 7) Shivshankar s/o Baburao Deshmukh,
(Wrongly mentioned as Nitin Baburao
Deshmukh in F.I.R.)
Age; 39 years, Occ; Business,
R/o; 2056, Brahman Galli,
Near Vithal Mandir, Biloli,
Tq. Biloli, Dist. Nanded.
- 8) Baburao s/o Shankarrao Deshmukh,
Age; 61 years, Occ; Agril,
R/o; Punarvasan Karla (Kh),
Tq. Biloli, Dist. Nanded.

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

V E R S U S

- 1) The State of Maharashtra
Through Police Station
Mukhed, Dist. Nanded,
- 2) Savita w/o Rajesh Rajwade,
Age; 36 years, Occ; Household,
R/o; Rajewadi, Tq. Hadgaon,
Dist. Nanded, at present Betmogra,
Tq. Mukhed, Dist. Nanded.

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

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Shri. U.B. Bilolikar, Advocate for the Applicants
Shri P.K.Lalhotiya, learned A.P.P.for Respondent No.1
Shri. Vivek J. Dhage, Advocate for Respondent No.2
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**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**

DATE : 05/10/2020

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

1. Rule. Rule made returnable forthwith. With the consent of
the parties, heard finally at admission stage.

2. Applicants have preferred this application under Section 482 of the Code of Criminal Procedure, (Cr.P.C.) for quashing of the First Information Report, (F.I.R.) No. 242 of 2019, registered with Mukhed Police Station, District Nanded for the offences punishable under Sections 498-A, 323, 504 506 read with Section 34 of the Indian Penal Code.

3. Facts giving rise to this application are that respondent No. 2 (the informant herein) married one Rajesh Yadavrao Rajwade in the year 2003. Applicant Nos. 1, 3 and 5 are the sisters of Rajesh Rajwade (the husband of respondent No. 2), applicant No. 2 is the husband of applicant No. 1, applicant No. 4 is the husband of applicant No. 3, applicant No. 6 is the husband of applicant No. 5, applicant No. 7 is maternal cousin and applicant No. 8 is the maternal uncle of Rajesh Rajwade. It is alleged by respondent No. 2 that she and Rajesh have two children by name Swarangi aged 15 years and Swarang aged 12 years. She was maintained well for a period of one year after marriage by the applicants. Her husband, her mother-in-law, father-in-law started saying that she should bring Rs. 10,00,000/- from her parents for meeting his household expenses and for starting Agricultural Service Center (Krushi Seva Kendra) and on that count they used to ill-treat her physically and mentally. They used to beat her and used to keep her starved. Applicant Nos. 1 to 6 used to instigate the husband of respondent No. 2 and her mother-in-law whenever they had been to the matrimonial place of respondent No. 2 and because of their

instigation, her husband and her mother-in-law used to beat her. Upon instigation by applicants, her husband used to beat and abuse her and used to threaten her to kill. On these allegations she lodged report in the Police Station, on the basis of which, offences punishable under Sections 498-A, 323, 504 506 read with Section 34 of the I.P.C. have been registered against the applicants.

4. Heard Shri. U.B. Bilolikar, the learned counsel for the applicants, Shri P.K.Lalhotiya, learned A.P.P. for respondent No.1 and Shri. Vivek J. Dhage, the learned counsel for respondent No.2.

5. Shri Bilolikar, the learned counsel for the applicants submitted that vague allegations are made against the applicants. No specific allegations are made against them, so as to attract the offence under Section 498-A of the I.P.C. He further submitted that the applicants are not residents of matrimonial place of respondent No. 2. He argued that on the basis of these vague allegations, no offence is made out against the applicants. He, therefore, prayed for quashing the proceedings against the applicants.

6. The learned APP Shri Lakhotiya for respondent/State and Shri Dhage, learned counsel for respondent No. 2 argued that specific allegations have been made against all the applicants. All the applicants subjected respondent No. 2, to ill-treatment on account of their non fulfillment of demand of Rs. 10,00,000/-, therefore,

proceedings cannot be quashed. The learned Counsel Shri Dhage, for respondent No. 2 placed reliance on **2018 AIR (SC) 659 - [2018 DGLS (SC) 44] Latesh @ Dadu Baburao Karlekar Vs State of Maharashtra and State of Maharashtra Vs Shila Asawari Arun Kshirsagar & Ors.**

7. On perusal of F.I.R. and papers annexed with it, it is seen that vague allegations are made against the applicants. No date of ill-treatment is mentioned. Specific allegations are not made against any of the applicants. It is vaguely stated that the applicant Nos. 1 to 6 used to instigate husband of respondent No.2 and her mother-in-law, whenever they had been to the matrimonial place of respondent No. 2. Charge-sheet itself shows that the applicants did not live at the matrimonial place of respondent No. 2. As per the charge-sheet, applicant No. 1 and 2 are the residents of Mukhed, applicant Nos. 3 and 4 are the residents of Kalda Corner, Aurangabad. Applicant Nos. 5 and 6 are the residents of Pune. Applicant Nos. 7 and 8 are the residents of Biloli, District Nanded. Whereas, respondent No. 2 and her husband are the residents of Rajewadi, Tq. Hadgaon, Dist. Nanded. It clearly shows that the applicants are not the residents of matrimonial place of respondent No. 2. In this view of the matter, it cannot be said on the basis of these vague allegations, that any fruitful purpose would be served by continuation of prosecution. It would be an abuse of process of law. Hence, we do not find it appropriate to continue the prosecution against the applicants. We have gone through the authorities cited by

Shri Dhage, learned counsel for respondent No. 2, they are not applicable to the facts of the case in hand. Hence the following order is passed :

ORDER

- 1) Application is allowed.
- 2) Relief is granted in terms of prayer clauses 'B' and 'C-1'.
- 3) Rule is made absolute in those terms.

(M.G. SEWLIKAR)
JUDGE

(T.V. NALAWADE)
JUDGE