

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3051 OF 2018

1. Rameshwar s/o Namdeo Murkute
age 42 years, occ. Agril.,
r/o Kakaddhaba, Tq. Aundha Nagnath
Dist. Hingoli.
2. Champatrao s/o Ginyanrao Kalyankar
Age 65 years, occ. Agril.,
3. Gangubai w/o Champatrao Kalyankar
Age 58 years, occ. Household

Both r/o Kanjara, Tq. Aundha Nagnath
Dist. Hingoli
4. Panditrao s/o Ginyanrao Kalyankar
Age 54 years, occ. Agri.,
5. Radhabai @ Suvarna w/o Panditrao Kalyankar
Age 29 years, occ. Household

Both r/o Jijamata Nagar, Hingoli
6. Ranjana w/o Kailas Ghope
Age 44 years, occ. Household
r/o at Poor, Taluka Aundha
Dist. Hingoli
7. Sindhu w/o Rameshwar Murkute
Age 39 years, occ. Household
R/o Kakaddhaba, Tq. Aundha Nagnath
Dist. Hingoli
8. Rajesh s/o Champatrao Kalyankar
Age 38 years, occ. Service
r/o Kanjara, Tq. Aundha Nagnath
Dist. Hingoli

Applicants

Versus

1. The State of Maharashtra
Through Police Station Harsool
Dist. Aurnagabad.
 2. Aruna w/o Rajesh Kalyankar
Age 29 years, occ. Household and tailoring
r/o Kakaddhaba, Tq. Aundha
Dist. Hingoli
- Respondents

Mr. Shaikh Majit S., Advocate holding for Mr. S.S. Deshmukh,
Advocate for the applicants.

Mr. K.D. Mundhe, APP for respondent No. 1.

Mr. M.K. Jadhav, Advocate appointed for respondent No. 2.

**CORAM : T.V. Nalawade &
M.G. Sewlikar, JJ.**

DATE : 5th March, 2020.

JUDGMENT : (PER M.G. SEWLIKAR, J.)

1. Rule. Rule made returnable forthwith.
2. By consent, heard both sides for final disposal.
3. This is an application under Section 482 of the Code of Criminal Procedure seeking invocation of powers of this Court for quashing of the charge-sheet bearing R.C.C. No. 70/2018 pending

before the Judicial Magistrate First Class, Aundha Nagnath, Dist. Hingoli under Sections 498A, 323 read with Section 34 of the Indian Penal Code.

4. The facts leading to this application are that the applicant No. 8 is the husband of respondent No. 2. Applicants No. 6 and 7 are the sisters of applicant No. 8. Applicant No. 4 is the distant father-in-law of respondent No. 2. Applicant No. 5 is the wife of applicant No. 4. Applicant No. 2 is the father and applicant No. 3 is the mother of applicant No. 8 and applicant No. 1 is the husband of applicant No. 7.

5. Respondent No. 2 married applicant No. 8 in the year 2003. Applicant No. 8 was working in health department. She was maintained well for a period of 13 years after marriage. Thereafter i.e. from September 2016, applicant No. 8 got addicted to drinking. He started beating her with kicks and fists blows and would drive her out of the house. All the applicants used to instigate applicant No. 8 saying that applicant No. 8 should ask respondent No. 2 to bring Rs. 50,000/- from her parents for purchasing a plot at Himayat Nagar and for purchasing motorcycle. When she refused to do so, applicant

No. 8 beat her and drove her out of the house. Parents of respondent No. 2 tried to effect settlement but applicants did not give any response hence she filed First Information Report On 15.02.2018.

6. Heard learned counsel for the respective parties.

7. Learned counsel for the applicants argued that on perusal of the First Information Report, it is evident that vague allegations are made against the applicants. He further submitted that applicants No. 4 to 7 do not live with applicant No. 8. Applicants No. 2 and 3 also do not live with applicant No.8. Therefore, the First Information Report should be quashed against them.

8. Learned APP and learned counsel appointed for respondent No. 2 submitted that specific allegations are made against all the applicants.

9. Applicant No. 8 is the resident of Kanjara and applicants No. 2 and 3 are also the residents of Kanjara, Tq. Aundha Nagnath, Dist. Hingoli. Respondent No. 2 has made specific allegations against applicant No. 8 that he got addicted to liquor and thereafter he

started beating her and abusing her. Application dated 22.12.2017 filed by respondent No. 2 indicates that specific allegations are made against applicants No. 2, 3 and 8. Having regard to this, learned counsel for applicants sought permission to withdraw application to the extent of applicants No. 2, 3 and 8.

10. So far as applicants No. 1, 4 to 7 are concerned, allegations against them are vague. It is vaguely alleged that applicants No. 1 and 4 to 7 used to instigate applicant No. 8 to make demand of Rs. 50,000/- for purchasing a plot and motorcycle. No details of harassment are given. Specific instances are not quoted. Vague and omnibus allegations are made against the applicants. On the basis of these vague and omnibus allegations, it cannot be said that any cognizable offence is made out against these applicants. The Hon'ble Apex Court in the case of Kans Raj and others Vs. State of Punjab and others reported in **AIR 2000 SC 2324** has observed that there is growing tendency to implicate the relatives of husband. In this case also, the relatives of the husband have been implicated. Therefore, continuation of prosecution against applicants No. 1, 4 to 7 will be an abuse of the process of the Court. Therefore, the First Information Report to their extent needs to be quashed. The case is

therefore squarely covered by the parameters laid down by the Hon'ble Apex Court in the case of State of Punjab and others Vs. Ch. Bhajan Lal reported in AIR 1992 SC 604.

11. In view of above, the following order is passed :-

ORDER

1. Application of applicants No. 2, 3 and 8 is disposed of as withdrawn.

2. Application of remaining applicants is allowed.

3. Relief is granted to them in terms of prayer clause 'A'.

4. Fees of the appointed counsel is quantified at Rs. 3,000/- to be paid by High Court Legal Services Sub-Committee, Aurangabad.

5. Rule made absolute in those terms.

(M. G. SEWLIKAR)
Judge

(T.V. NALAWADE)
Judge