

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

**CRIMINAL APPLICATION NO. 3139 OF 2018**

- 1) Sachin s/o Sopan Aute,  
Age; 36 years, Occ; Gas-geyser Mechanic  
R/o; Rajshri 02, Plot No. 21, Survey No.  
349/21, Neqar Idea Tower, Datta Nagar,  
Behind Ganesh Market, Konark Nagar,  
Adgaon Shivar, Nashik, Tq. Nashik,  
Dist. Nashik.
- 2) Sopan s/o Baburao Aute,  
Age; 70 years, Occ; Nil,  
R/o; Shraddha Bangla No. 11, Konark  
Nagar 02, Adgaon Shivar, Nashik, Tal.  
Nashik, Dist; Nashik.
- 3) Pratibha w/o Sopan Aute,  
Age; 63 years, Occ; Service & Household,  
R/o; As above.
- 4) Shailesh s/o Sopan Aute,  
Age; 40 years, Occ; Service,  
R/o; As above.
- 5) Saw. Rekha w/o Shailesh Aute,  
Age; 31 years, Occ; Household,  
R/o; As above.
- 6) Saw. Karuna w/o Balasaheb Ghorpade,  
Age; 40 years, Occ; Household,  
R/o; House No. 785, Near Maruti Mandir,  
Gaikwad Galli, At post Bhagur, Tq. Nashik,  
Dist. Nashik.
- 7) Balasaheb s/o Shridhar Ghorpade,  
Age; 48 years, Occ; Business,  
R/o; As above.

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

**V E R S U S**

1) The State of Maharashtra  
Through its Police Station Officer, Police  
Station Kranti Chowk, Aurangabad,  
Tal.- Dist- Aurangabad.

2) Rupali w/o Sachin Aute,  
Age; 24 years, Occ; Household,  
R/o; 6-11-222, Gate No. 51,  
Banewadi, Near Railway Station,  
Aurangabad,  
Tq. Aurangabad, Dist; Aurangabad.

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

.....  
Shri. Sudhir Telgote , Advocate for the Applicants  
Smt. S.G. Sanagle, learned A.P.P.for the Respondent No.1  
Shri. D.R. Markad h/f Mr. N.S. Gnahekar, Advocate for Respondent No.2  
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**CORAM : T.V. NALAWADE &  
M.G. SEWLIKAR, JJ.**

**DATE : 04<sup>th</sup> MARCH, 2020**

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

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

2. This is an application invoking inherent powers of this Court  
under Section 482 of the Code of Criminal Procedure, for quashing of  
the First Information Report, No. 1196 of 2016, registered with  
Krantichowk Police Station, Dist. Aurangabad for the offences under  
Sections 498-A, 506 read with Section 34 of the Indian Penal Code and  
Section 3 and 4 of the Dowry Prohibition Act, 1961 and the charge-  
sheet filed consequent to it.

3. Facts giving rise to this application are that the respondent No. 2 married applicant No. 1 on 14.02.2013. After the marriage she went to Nashik for co-habitation with the applicant No. 1. She was maintained well for the period of two months after the marriage.

4. The applicant No. 1 is the husband of the respondent No. 2. The applicant No. 2 is the father, applicant No. 3 is the mother, applicant No. 4 is the brother, applicant No. 6 is the sister of the applicant No. 1. The applicant No. 5 is the wife of the applicant No. 4 and the applicant No. 7 is the husband of the applicant No. 6.

5. It is further alleged by the respondent No. 2 that after two months of marriage, all the applicants saying that she should bring Rs. 1,00,000/- from her parents, otherwise she would not be maintained. They used to beat and abused her. In the month of January, 2014, she was dropped at her maternal place as unlawful demand of the applicants was not met. Her parents and relatives attempted for re-conciliation but the applicants did not respond. Hence she approached to the Women Redressal Cell, however nothing fruitful came out on it. Therefore, she lodged this F.I.R. against the applicants and on the basis of which an offence under Section 498-A, 506 read with Section 34 of the I.P.C. and under Section 3 and 4 of the Dowry Prohibition Act has been registered against the applicants.

6. Heard Shri. Sudhir Telgote, the learned counsel for the Applicants, Smt. S.G. Sanagle, learned A.P.P. for the Respondent No.1 and Shri. D.R. Markad the learned counsel for Respondent No.2.

7. Shri Telgote, the learned counsel for the applicants submitted that the allegations made in the F.I.R. are general in nature. The F.I.R. has been filed to harass the applicants. No details of ill-treatment are given. It is vaguely mentioned that the applicants made demand of Rs. 1,00,000/- and for the non-fulfillment of which she was subjected to the ill-treatment.

8. The learned A.P.P. for the State submitted that specific allegations are made against all the applicants therefore, the commission of a cognizable offence under Section 489-A of the I.P.C. is made out against them.

9. On perusal of the F.I.R., it is seen that general and vague allegations are made against the applicant Nos. 2 to 7. No specific allegations are made against each of the applicants. It is vaguely mentioned that all the applicants made demand of Rs. 1,00,000/- and for the non fulfillment of which the respondent No. 2 was harassed. It is difficult to accept that the applicant Nos. 2 to 7 made demand in one voice and subjected her to ill-treatment. Instances of the ill-treatment are not given. No details are given. Specific allegations are not made

against each of the applicant Nos. 2 to 7. Vague and omnibus allegations are made against all the applicant Nos. 2 to 7.

10. Having noticed that we were not inclined to grant the relief to the applicant No. 1 (husband), the learned counsel for the applicant No. 1 sought permission to withdraw the application to his extent.

11. The Hon'ble Supreme Court in the case of **Kans Raj V/s State of Punjab (AIR 2000 SC 2324)**, has observed that

*"there is a growing tendency to implicate near relatives of the husband in dowry cases".*

It is further observed as under :

*"In their over enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused."*

12. The Hon'ble Supreme Court in the case of **Madhavrao Jiwaji Rao Scindia & and Another. Etc v. Sambhajirao Chandrojirao Angre and others etc. - AIR 1988 SC 709**, has observed that

*"The legal position is well-settled that when a prosecution at the initial stage is asked to be*

*quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage."*

In the case at hand also un controverted allegations against the applicant Nos. 2 to 7 do not show the commission of any cognizable offence. Therefore, the continuation of the prosecution' against against the applicant Nos. 2 to 7 would be an abuse of the process of the Court. In view of this, we are inclined to quash the F.I.R. and the Charge-sheet in R.C.C. No. 460 of 2018 against the applicant Nos. 2 to 7. Hence the following order is passed :

### **ORDER**

- 1) The application of applicant No. 1 is withdrawn and it stands disposed of as withdrawn.
- 2) Application for applicant Nos. 2 to 7 is allowed in terms of prayer clause (B).

3) Rule is made absolute In those terms.

**(M.G. SEWLIKAR, J.)**

**(T.V. NALAWADE, J.)**

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