

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

CRIMINAL APPLICATION NO. 3221 OF 2018

- 1) Shivacharan s/o Venkatrao Suryavad,
Age; 35 years, Occ; Teacher,
R/o; Ahilyadevi Chouk, Kokanwadi,
Auranabad.
- 2) Mangalabai w/o Venkatrao Suryavad,
Age; 45 years, Occ; Household,
R/o; Near Bhai Kishnrao Deshmukh
Vidyalaya, Chakur, Tq. Chakur Dist; Latur.
- 3) Venkatrao s/o Sambhaji Suryavad,
Age; 54 years, Occ; Service,
R/o; As above.
- 4) Kiarn s/o Venkatrao Suryavad,
Age; 27 years, Occ; Education,
R/o; Chakur Tq. Chakur,
Dist; Latur.
- 5) Jayshri w/o Shankar Mane,
Age; 32 yrs, Occu; Education/Household,
R/o; Shrikrishnanagar, Jalna,
Tq. and Dist; Jalna.

**.APPLICANTS
(Orig. Accused)**

V E R S U S

- 1) The State of Maharashtra,
Through Police Station Officer,
Police Station, Vedantnagar,
Aurangabad.
- 2) Sonali w/o Sahebrao Waikar,
Age; 25 yrs, Occ; Govt. Service,
R/o; C/o; Rajendrasing Rajput Wada,
Bansilal Nagar, Aurangabad.

..RESPONDENTS

.....
 Shri. R.S. Patil, Advocate for the Applicants
 Smt. D.S.Jape, learned A.P.P.for the Respondent No.1
 Shri. A.L. Kanade, Advocate for Respondent No.2

WITH

CRIMINAL APPLICATION NO. 541 OF 2019

IN

CRIMINAL APPLICATION NO. 3221 OF 2018

- 1) Shivacharan s/o Venkatrao Suryavad,
 Age; 29 years, Occ; Teacher,
 R/o; Ahilyadevi Chouk, Kokanwadi,
 Auranabad.
- 2) Mangalabai w/o Venkatrao Suryavad,
 Age; 45 years, Occ; Household,
 R/o; Near Bhai Kishnrao Deshmukh
 Vidyalaya, Chakur, Tq. Chakur Dist; Latur.
- 3) Venkatrao s/o Sambhaji Suryavad,
 Age; 54 years, Occ; Service,
 R/o; As above.
- 4) Kiarn s/o Venkatrao Suryavad,
 Age; 27 years, Occ; Education,
 R/o; Chakur Tq. Chakur,
 Dist; Latur.
- 5) Jayshri w/o Shankar Mane,
 Age; 32 yrs, Occu; Education/Household,
 R/o; Shrikrishnanagar, Jalna,
 Tq. and Dist; Jalna.

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

V E R S U S

- 1) The State of Maharashtra,
 Through Police Station Officer,
 Police Station, Vedantnagar,

Aurangabad.

- 2) Sonali w/o Sahebrao Waikar,
Age; 25 yrs, Occ; Govt. Service,
R/o; C/o; Rajendrasing Rajput Wada,
Bansilal Nagar, Aurangabad.

**..RESPONDENTS
(Orig.
Complainant)**

**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**

DATE : 31st JANUARY, 2020

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

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

2. The Criminal Application No. 3221 of 2018 is filed under Section 482 of the Code of Criminal Procedure, for quashment of the First Information Report, No. 115 of 2018, registered at Vedantnagar Police Station, Aurangabad, for the offences under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and the Criminal Application No. 541 of 2019 is filed for amendment in the Criminal Application No. 3221 of 2018.

3. The respondent No. 2 filed the F.I.R. against the applicants alleging therein that the respondent No. 2 married applicant No. 1 on 24.4.2016. The applicant No. 2 is the mother, the applicant No. 3 is

the father and the applicant No. 4 is the brother and the applicant No. 5 is the married sister of the applicant No. 1.

4. It is alleged by the respondent No. 2 that she was maintained well by the applicant No. 1 for about one month after marriage. A son by name Soham is born out of the wedlock. It is further alleged that within fifteen days after the marriage, the applicant No. 1 took her A.T.M. Card and it is in his custody since then. The applicant No. 1 started ill-treating the respondent No. 2 after she got a call from her parents on 16.1.2016 in the month of April 2017 at 12.30 a.m., the applicant No. 1 pulled the son Soham from the respondent No. 2 and threw him and beat her mercilessly and because of the bleeding she felt unconscious. On hearing quarrel, the applicant Nos. 2 to 5 came there. They broke open door and saved her. Thereafter, the applicant No. 2 started saying that she should bring Rs. 4,50,000/- (Rs. Four lacs and Fifty Thousand Only) from her parents for purchasing a plot at Nanded and on that count the applicant No. 2 beat her and hurled abuses at her. The respondent No. 6 had come to the applicants. At that time the applicant Nos. 2, 3 and 5 said to her that she should bring from her parents a gold ring of one tola and clothes for all the applicants. There was some quarrel on account of the gold ring of the respondent No. 2. At that time, the applicant Nos. 1, 3 and 4 came there. They also abused her and beat her. Thereafter, the respondent No. 2 joined the service as Tax Assistant at Aurangabad. At

that time the applicant No. 1 beat the respondent No. 2 on the ground that the sleep of the applicant No. 1 was being disturbed because of weeping of the child. On 13.9.2018 at 3.30 p.m. the applicant No. 1 again demanded Rs. 4,50,000/- (Rs. four lacs and fifty thousand only) and beat and abused her on that count. She was tried to be throttled. The applicant No. 1 punched on the eye of the respondent No. 2 and because of which her eye was swollen. Thereafter, she lodged the F.I.R. against the applicants.

5. Heard Shri. R.S. Patil, learned counsel for the Applicants Smt. D.S.Jape, learned A.P.P. for the Respondent No.1 Shri. A.L. Kanade, learned counsel for the Respondent No.2.

6. Shri Patil, learned counsel for the applicants submitted that the allegations against all the applicants are vague and even if they are accepted at their face value, the commission of a cognizable offence is not disclosed. Therefore, on the basis of such allegations if the accused/applicants are required to face trial, it would be nothing but an abuse of the process of the Court.

7. Smt. Jape, learned A.P.P. for the respondent No. 1 State and Shri Kanade, learned counsel for the respondent No. 2 submitted that the allegations are specific. Respondent No. 2 was subjected to ill-treatment on account of unlawful demand of Rs. 4,50,000/- (Rs. Four

lacs and fifty thousand only) for purchasing a plot. She was beaten once on right eye and because of which her right eye was swollen. Both the learned counsel submitted that in view of specific allegations against all the applicants, cognizable offence under Section 498-A of the I.P.C. has been made out against all the applicants. Both of them therefore prayed for dismissal of the application.

8. On perusal of the papers, it is seen that all the allegations are against the applicant No. 1 only. The respondent No. 2 has specifically alleged that she was being beaten by the applicant No. 1. On hearing noise, applicant Nos. 2 to 4 came there running and they broke open the door and saved her. It clearly shows that the applicant Nos. 2 to 4 intervened and rescued the respondent No. 2. The allegations against the respondent Nos. 2 to 4 are vague in nature. The applicant No. 5 is the resident of Jalna. She is the married sister of the applicant No. 1. In view of the omnibus allegations, it cannot be said that any cognizable offence is made out against applicant Nos. 2 to 4. If the applicant Nos. 2 to 4 are made to face the trial, it will be nothing but an abuse of the process of the Court. Therefore, their case is squarely covered by the case of **“State of Haryana and Others V/s. Bhajan Lal and Others - AIR 1992 SUPREME COURT 604”**.

9. During the course of arguments when the learned counsel for the applicants realized that this court was not inclined to grant relief

to the applicant No. 1, he sought permission to withdraw the application to the extent of the applicant No. 1. Accordingly the permission was accorded.

10. In view of above, the application is allowed to the extent of applicant Nos. 2 to 5. In view of this following order is passed :

ORDER

- 1) Both the applications are allowed.
- 2) Relief is granted in favour of applicant Nos. 2 to 5 in Criminal Application 3221 of 2018 in terms of prayer clauses 'B' and 'C'.
- 3) Application for applicant No. 1 is disposed of as withdrawn.
- 4) The Criminal Application No.541 of 2019 filed for amendment of quashing of the charge-sheet in R.C.C. No.243 of 2019 is allowed and disposed.
- 5) Rule made absolute in above terms.

(M.G. SEWLIKAR, J.)

(T.V. NALAWADE, J.)