

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

CRIMINAL APPLICATION NO. 3535 OF 2018

1. Sabiya Begum w/o Mahmood Khan
Age: 59 years, Occ. Household,
R/o Mill Gate, 2-9-410, Nanded.
2. Samina Begum w/o Shaikh Rasheed
Age: 36 years, Occ. Household,
R/o Plot No.83, Noble Colony,
Near Nasratpur Road, Post Taroda Bk,
Taluka and Dist. Nanded
3. Mohsin Khan s/o Mahmood Khan
Age: 32 years, Occ. Business,
R/o Mill Gate, 2-9-410, Nanded.
4. Imran Khan s/o Mahmood Khan
Age: 30 years, Occ. Business,
R/o Mill Gate, 2-9-410, Nanded.
5. Zeenath Khanam d/o Mahmood Khan
Age: 21 years, Occ. Household,
R/o Mill Gate, 2-9-410, Nanded.
6. Seema Khan w/o Mirza Ahmed Baig
Age: 24 years, Occ. Household,
R/o At present at Sharja UAE.

... **Applicants**

Versus

1. The State of Maharashtra,
through Incharge
Vazirabad Police Station,
Tq. & Dist. Nanded.
2. Asra Khan w/o Javed Khan,
Age: 25 years, Occ. Household,
R/o. Gawlipura, Nanded.

... **Respondents**

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Mrs. A.N. Ansari, Advocate for the Applicants.

Mr. S.G. Sangle, A.P.P. for Respondent no.1-State.

Mr. S.S. Gangakhedkar, Advocate for Respondent No.2.

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

DATE : 04.02.2020

JUDGMENT :- (Per: *M.G. Sewlikar, J.*)

Rule. Rule is made returnable forthwith. Learned A.P.P. and the learned advocate for the respondent no.2 waived service. With the consent of both the sides the matter is heard finally at the stage of admission.

2. This is an application under Section 482 of the Cr.P.C. invoking inherent powers of this Court for quashing of the F.I.R. Facts giving rise to this application are that respondent no.2 married one Javed Khan on 18.02.2010. The couple has a daughter of two years of age. The applicant no.1 is the mother of the said Javed Khan, applicant no.2 and 6 are the married daughters of applicant no.1, applicant nos.3 and 4 are sons of applicant no.1 and applicant no.5 is the unmarried daughter of applicant no.1.

3. It is alleged in the F.I.R. that all the applicants used to say that she should bring Rs.50,000/- from her parents for the business of furniture. They used to call her parents as beggars. The applicant no.1 used to say that

respondent no.2 is good for nothing. She has brought evil luck and used to ill-treat her physically and mentally. Applicants used to say that she is vagabond and insane. They also used to say that she has become fat like a buffalo and used to call her a prostitute. They used to instigate Javed Khan to beat the respondent no.2. Her husband Javed Khan used to call her a bitch. She delivered a baby girl-Faiza Khan owing to which they did not allow her to come back to matrimonial house. Since then she has been staying with her parents. On these allegations F.I.R. was lodged on 13.10.2018.

4. Heard Mrs. A.N. Ansari the learned advocate for the applicants, Mr. S.G. Sangle the learned APP for the respondent-state and Mr. Gangakhedkar the learned advocate for the respondent no.2.

5. Mrs. Ansari argued that respondent no.2 had filed R.C.C. No. 91 of 2012 against her husband Javed Khan under Section 498 -A, 323, 504, 506 of the I.P.C. in which the said Javed Khan has been acquitted. She argued that again respondent no.2 filed another complaint under Section 498-A against her husband and applicants. She contended that allegations against all the applicants are general in nature. In the absence of specific allegations, it cannot be said that any cognizable offence is made out against the applicants.

6. The learned A.P.P. Mr. Sangle argued that specific allegations are

made against all the applicants. Therefore the F.I.R. cannot be quashed.

7. On perusal of the F.I.R. and the papers annexed with it it is seen that R.C.C. No. 91 of 2012 was filed by the respondent no.2 under Section 498 -A, 323, 504, 506 of the I.P.C. in which accused Javed Khan has been acquitted. On perusal of the judgment, it is seen that respondent no.2 did not support the allegations in the F.I.R., Obviously, with the hope of saving the marriage. This gesture on her part did not yield any result. In the F.I.R. there are specific allegations against the applicant no.1. Therefore the F.I.R. as against applicant no.1 cannot be quashed. Learned advocate for the applicants Mrs. Ansari sought permission to withdraw application to the extent of applicant no.1. Applicant no.1 has been staying with the said Javed Khan.

8. So far as other applicants are concerned, it is seen that no overt act is attributed to any of the applicants. No specific act is attributed to any of the applicants. It is difficult to fathom that applicant nos.2 to 6 would make a demand of Rs.50,000/- in one voice and in one voice would abuse her. Therefore in the absence of specific details of ill-treatment and on the basis of vague and omnibus allegations, it cannot be said that commission of any cognizable offence is made out against any of the applicant nos.2 to 6. In view of this the F.I.R to the extent of applicant nos.2 to 6 will have to be

quashed.

9. As observed by the Hon'ble Supreme Court in the case of **Kans Raj V/s. State of Punjab; AIR 2000 SC 2324**, tendency is growing to implicate near and dear relatives of the husband so as to pressurize the husband. In the case at hand also near and dear relatives of the husband have been implicated as accused. Uncontroverted allegations do not indicate commission of any cognizable offence. Therefore, continuation of prosecution against them would be an abuse of the process of Court. Hence following order is passed:

ORDER

- I. Application to the extent of applicant nos.2 to 6 is allowed and the rule is made absolute to their extent in terms of prayer clause-B.
- II. The application to the extent of applicant no.1 is disposed of as withdrawn and the rule is discharged to her extent.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]