

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO. 2 OF 2020

Nagesh Dashrath Bombale and another .Vs. State of Maharashtra, through
PSO, PS, Mehkar, Tq. Mehkar, Dist. Buldhana and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Bushan Dafle, Advocate for applicant.
Mr. S.M. Ghodeswar, A.P.P. for non applicant-State.
Mr. S.B. Gandhe, Advocate for original complainant.

CORAM : V. M. DESHPANDE, J.

DATED : JANUARY 22, 2020.

CRIMINAL APPLICATION (APPP) NO. 76 OF 2020

This is an application for assisting the prosecution
filed by the original complainant.

For the reasons stated in the application, the
application is allowed. Mr. Gandhe, learned counsel is
allowed to assist the prosecution.

The application is disposed of.

CRIMINAL APPLICATION (ABA) NO. 2 OF 2020

This is an application for pre-arrest bail.

2. Heard Mr. Dafle, learned counsel for the
applicant, Mr. Ghodeswar, learned Additional Public
Prosecutor for non applicant-State and Mr. Gandhe, learned
counsel for the original complainant assisting the
prosecution.

3. Applicant is apprehending his arrest in connection with Crime No.240/2019 registered with Police Station, Mehkar, Dist. Buldana for an offence punishable under Sections 498A, 323, 506B read with Section 34 of the Indian Penal Code.

4. The offence is registered against seven persons on the report lodged by Urmila Bombale, who are her husband and in-laws. As per the report, on 26.04.2013 Urmila's marriage was performed with applicant no.1-Nagesh. Applicant no.2 – Dashrath is her father-in-law. In the marriage, father of Urmila spent about ₹ 8,00,000/- and also gave household articles for their martial life. After marriage, she started residing in her matrimonial house. Her in-laws and husband were joint in residence. After three months of marriage, applicant no.1-Nagesh asked Urmila that she should ask her father to give ₹1,00,000/- for purchasing a vehicle. When this was resisted by Urmila, she used to be assaulted by applicant no.1 and her mother-in-law. Even she was put to starvation. Even her married sister-in-law used to instigate her husband for demanding money and also to assault Urmila. Since this ill-treatment was unbearable, Urmila came to her parental house and disclosed the harassment to her maternal house. The unfortunate father of Urmila, in order to save his daughter from ill-treatment, gave ₹1,00,000/- to the applicant no.1. Normally, the lust of the husband and his family members should have stopped there. Further, it appears that they

again started beating Urmila and demanding ₹10,00,000/- to purchase agricultural field. On that count, she was subjected severe cruelty. Not only that she was sent by applicants to her parental house in 2016. That time, father of Urmila and her relatives somehow prevailed upon the applicants and their family members and when the injured Urmila started residing in her marital house, at this point of time all her gold ornaments which were given to her in her marriage by her parents were taken away by her mother-in-law. In the meanwhile, Urmila became pregnant and delivered a baby boy at her parental house. Thereafter, when she went for cohabitation with her husband, the applicant no.1 for non-fulfillment of the demand of ₹10,00,000/-, started assaulting on her under the influence of liquor. The other family members of Nagesh used to ask Urmila that she should fulfill the demand of her husband. However, for non-fulfillment of the illegal demands, in the year 2017, she was thrown out of her marital house. Hence, she started residing at her parental house. The parents again gave a word of advise to the applicants and other family members and with folded hands asked them that they should not ill-treat his daughter. A cellphone was given to her by her father. Upon that the applicant no.1 picked up quarrel that she is making phone calls to somebody.

5. The incident of highest cruelty took place on 03.07.2019 at 12:30 noon, when she was coming on the said day to her marital house that time her husband and in-laws

were present. On noticing her presence in her marital house the mother-in-law picked up quarrel as to why she is in the marital house without there being ₹10,00,000/- with her. Upon that the injured Urmila stated that she will reside in her marital house. On that, applicant no.1 assaulted on her. Thereafter, her in-laws who were present there assaulted on her by fist and kicks. When she fell down due to the said assault applicant no.2 Dashrath her father-in-law asked his son Nagesh to bring Kerosene. Thereafter, her mother-in-law and married sister-in-law caught hold of her. Kerosene container was brought by her husband and it was poured on her person and thereafter she was set ablaze by her father-in-law Dashrath. Somehow Urmila got herself rescued and came outside the house, due to her shouts the attention of others was invited.

6. With these allegations the offence is registered. Investigation papers show that immediately medical treatment was offered to her at Rural Hospital, Mehkar. The injury report shows that the doctor who treated her found that her body was emitting Kerosene smell. There were burn injuries all over her body. There is also an eye witness. His name is Bhagwan Bomble. He is neighbour of Nagesh and Dashrath Bomble. His statement would show that shouts of Urmila was the reason to give attention to the house of applicants. That time he noticed that Urmila was caught hold by her mother-in-law, her married sister-in-law and in-laws and applicant no.1 Nagesh was assaulting and

Kerosene was poured on her.

7. According to learned counsel for the applicant, the injured left her marital house on her own. To substantiate this particular submission, there is nothing on record inasmuch as she left her house on her own, there would have been steps on the part of the applicant no.1 for their cohabitation. It was always open for the applicant to file appropriate proceedings before the appropriate Court for resumption of restitution of conjugal rights. From the investigation it is very clear that the injured as well as applicants are residing in same village. Normally, a married woman will not leave her matrimonial place unless there is compelling reason not to reside. In such circumstances, *prima facie*, looking to the First Information Statement of the injured and the neighbour, the ill-treatment given to the injured Urmila will have to be given weightage .

8. Urmila was having a small child. Mother's affection towards her progeny cannot be gauged or measured. Further, the statement of Bhagwan, an eye witness, who appears to be of same surname of the applicants, clearly shows that he noticed assault on 03.07.2019 at the hands of the applicants and their other family members and Kerosene was poured on her person. The doctor also noticed burn injury on her body.

9. In aforesaid circumstances, in my view, it is crystal clear that applicants are having highest degree of lust for money and they can go to any extend. Therefore, in my considered opinion, this is not a case wherein this Court should exercise any discretion in favour of such persons. Consequently, the application is rejected.

10. Needless to mention the interim order granted on 06.01.2020 by this Court stands vacated. It is expected from the investigating officer to take immediate steps in accordance with law against the applicants.

JUDGE

srwagh