

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

**CRIMINAL APPLICATION NO. 150 OF 2020**

- 1) Rehanabi w/o Mushoroddin Kazi,  
Age; 65 years, Occ; Household,  
R/o; Vita Bhatti, Near Durga Mata Mandir,  
Deopur, Dhule, District; Dhule.
- 2) Shabanabi w/o Faridkhan  
Age; 43 years, Occ; Household,  
R/o; Ahbab Colony, Ravindra Nagar,  
Katkot Gate Road, Aurangabad.
- 3) Shabina w/o Shaikh Imran,  
Age; 29 years, Occ; Household,  
R/o; Vita Bhatti, Near Durga Mata Mandir,  
Deopur, Dhule, District Dhule.
- 4) Rizwana w/o Shaikh Akbar,  
Age; 35 years, Occ; Household,  
R/o; Hazar Kholi, Behind Public Hospital,  
Dhule, District Dhule.

**...APPLICANTS  
(Orig. Accused  
Nos. 2 to 5)**

**V E R S U S**

- 1) The State of Maharashtra
- 2) Heena w/o Azhar Kazi,  
Age; 28 years, Occ; Household,  
R/o; C/o; Ayyubkhan Gafoorkhan,  
Khaja Nagar, Near Madina Masjid  
Chalisgaon, District; Jalgaon.

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

.....  
Shri. Hemantkumar F. Pawar, Advocate for the Applicants  
Shri M.M.Nerlikar, learned A.P.P.for Respondent No.1  
Shri. Shaikh Shamsuddin Q., Advocate for Respondent No.2  
.....

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

**DATE : 12/01/2021**

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

1. Rule. Rule made returnable forthwith. With the consent of the parties, heard finally at the admission stage.
2. Applicants have preferred this application under Section 482 of the Code of Criminal Procedure, (Cr.P.C.) for quashing of the First Information Report, (F.I.R.) No. 279 of 2019, registered with Deopur Police Station, Dhule, District Dhule for the offences punishable under Sections 498-A, 323, 504 506 read with Section 34 of the Indian Penal Code and under Section 3 and 4 of the The Muslim Women (Protection of Rights on Marriage) Act, 2019.
3. Facts giving rise to this application are that respondent No. 2 (the informant herein) married one Azar Mushoroddin Kazi on 22/05/2011. Applicant No. 1 is the mother-in-law and applicant Nos. 2 to 4 are the sister-in-laws of respondent No. 2.
4. It is alleged in the FIR that respondent No. 2 was maintained well for about one month after the marriage and thereafter, her husband and her in-laws started saying that respondent No. 2 and

her parents did not give dowry as per the demand of her husband and her in-laws. They were not properly honoured in the marriage and on that count they started ill-treating respondent No. 2 physically and mentally. Applicant Nos. 3 and 4 used to come to their maternal place after every 8 to 15 days and used to instigate her husband and applicant No. 1. Because of their instigation her husband and applicant No. 1 used to beat her. In the year 2012, she was pregnant. Her husband attempted to set her on fire by dousing her with kerosene oil, on the ground that she had cooked food in excess quantity. She somehow rescued her. She did not lodge FIR at that time as she wanted to cohabit with her husband. During her pregnancy again her husband beat her as she did not wash his clothes properly. He had kicked her in her abdomen and always used to threaten her that she would be stabbed by means of knife. On 30.09.2012 she delivered a baby girl, but none of the in-laws came to see her daughter. In the year 2014, her husband demanded Rs. 2,00,000/- from her for converting the cloth shop into showroom and for purchasing ready made cloths for the shop. Applicant No. 2 also used to instigate applicant No. 1 and the husband of respondent No. 2 whenever, she came to Dhule, i.e. at her maternal place. On 10.9.2019, she cooked 'Chapati' in excess quantity on account of roza. Her husband and applicant No. 1 got agitated on that count and she was beaten by them. Her daughter Alia informed parents of respondent No. 2 about the ill-treatment. Her parents came there on 10.9.2019 and tried to convince the applicants and her

husband but the applicants continued ill-treatment to her. Her husband dragged her out of house and started beating her. Her husband in the presence of Jahur Baig, Manwar Baig, Shaikh Ayaj Shaikh Firoj, Parshuram Ramdas Patil and Mahemood Osman Syed gave her divorce by pronouncing triple talaq. Therefore, she had also lodged complaint on 18.9.2019 with Deopur Police Station. She had lodged complaint at Women's Redressal Cell at Dhule, but it did not yield any positive result, therefore, she lodged the instant FIR on 24.11.2019 on the basis of which, crime under the aforesaid sections came to be registered against the applicants.

5. Heard Shri. Hemantkumar F. Pawar, the learned counsel for the applicants, Shri M.M.Nerlikar, learned A.P.P. for respondent No.1 and Shri. Shaikh Shamsuddin Q. the learned counsel for respondent No.2.

6. Shri Pawar, the learned counsel for the applicants argued that vague and general allegations are made against applicant Nos. 1 to 4. He submitted that entire allegations of ill-treatment and demand of dowry are against the husband of respondent No. 2. He submitted that even if the entire allegations are accepted to be true, no offence against applicant Nos. 1 to 4 can be said to be made out. Therefore, their case is squarely covered by the parameters laid down by the Hon'ble Supreme Court in the case of "**State of Haryana and Ors.**

**V/s. Ch. Bhajan Lal and Ors; AIR 1992 SUPREME COURT 604”**. In this view of the matter, if prosecution is allowed to be continued, it would be nothing but an exercise in futility.

7. Shri M.M. Nerlikar, learned A.P.P. for the respondent-State and Shaikh Shamsuddin Q. the learned counsel for respondent No.2 argued that specific allegations have been made against the applicants. It is alleged that applicant Nos. 2 to 4 used to instigate the husband of respondent No. 2 and applicant No. 1. At their instigation, applicant No. 1 and the husband of respondent No. 2 used to beat her and subjected her to cruelty physically and mentally. They submitted that offence under Section 498-A of the IPC is clearly made out.

8. So far as, applicant No. 1 is concerned, during arguments, we expressed our dis-inclination to grant any relief to applicant No. 1, Shri Pawar, learned counsel for applicant No. 1 sought permission to withdraw the application to the extent of applicant No. 1. Permission was accorded.

9. So far as, applicant Nos. 2 to 4 are concerned, in the FIR itself it is stated that applicant No. 2 is residing separately at Aurangabad and applicant Nos. 3 and 4 are living separately at Dhule. It is vaguely alleged that whenever applicant Nos. 2 to 4 came to her maternal place, they instigated applicant No. 1 and the husband of

respondent No. 2 to ill-treat respondent No. 2. It is vaguely mentioned that upon their instigation, applicant No. 1 and the husband of respondent No. 2 used to beat her and ill-treat her. These allegations are as vague as they could be.

10. They do not take prosecution case any further. On the basis of these allegations it cannot be said that any cognizable offence is made out against applicant Nos. 2 to 4. On perusal of FIR, it is clear that entire allegations of ill-treatment are against the applicant No. 1 and the husband of respondent No. 2. The allegations are also to the effect that the husband of respondent No.2 made the demand of dowry and made demand of Rs. 2,00,000/- for purchase of ready made cloths and for converting the cloth shop of husband of respondent No. 2 into a Showroom. This clearly shows that the grievance of respondent No. 2 is against her husband and applicant No. 1. The contents of FIR do not indicate that applicant Nos. 2 to 4 had made unlawful demand of money. On the basis of these vague allegations, it cannot be said that any cognizable offence is made out against applicant Nos. 2 to 4. In the case of **Geeta Mehrotra and another Vs. State of U.P. and another [2013 (1) Mh. L.J. (Cri.) 570]**, the Hon'ble Supreme Court has held as under :

*“what we wish to emphasize by highlighting is that, if the FIR as it stands does not disclose specific allegation against accused more so against the co-accused specially in a matter arising out of matrimonial bickering, it would be clear abuse of*

*the legal and judicial process to mechanically send the named accused in the FIR to undergo the trial unless of course the FIR discloses specific allegations which would persuade the Court to take cognizance of the offence alleged against the relatives of the main accused who are prima facie not found to have indulged in physical and mental torture of the complainant-wife."*

11. No overt act is attributed to any of applicant Nos. 2 to 4. No details of ill-treatment are given. The dates on which she was subjected to ill-treatment are also not given, therefore, continuation of the prosecution against applicant Nos. 2 to 4 would be an abuse of process of law and it would be an exercise in futility. Therefore, we are inclined to grant relief to applicant Nos. 2 to 4. In view of this, following order is passed :

**ORDER**

- 1) Application of applicant No. 1 is disposed of as withdrawn.
- 2) Applicant of applicant Nos. 2, 3 and 4 is allowed.
- 3) Relief is granted in terms of prayer clause 'B'.
- 4) Rule is made absolute in those terms.

**( M.G. SEWLIKAR )**  
**JUDGE**

**( T.V. NALAWADE )**  
**JUDGE**