

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

CRIMINAL APPLICATION NO. 532 OF 2020

1. Adinath S/o. Walmik Gutte,
Age : 31 years, Occ : Nil,
R/o. Bhagwati Nagar, Gangakhed,
Tq. Gangakhed, Dist. Parbhani.
2. Walmik S/o. Bhimrao Gutte,
Age : 60 years, Occ : Nil,
R/o. Bhagwati Nagar, Gangakhed,
Tq. Gangakhed, Dist. Parbhani.
3. Laxmibai W/o. Walmik Gutte,
Age : 55 years, Occ : Housewife,
R/o. Bhagwati Nagar, Gangakhed,
Tq. Gangakhed, Dist. Parbhani.
4. Jagannath S/o. Walmik Gutte,
Age : 30 years, Occ : Service,
R/o. Behind Podar School,
Dev Murti, Chaudhari Nagar,
Jalna, Tq. & Dist. Jalna.
5. Priyanka W/o. Balaji Mundhe,
Age : 27 years, Occ : Housewife,
R/o. S. No. 10, Ashok Nagar,
Near Sai Baba Mandir, Yervada,
Pune, Tq. & Dist. Pune.

.... APPLICANTS

VERSUS

1. The State of Maharashtra
Through Police Inspector,
Gangakhed Police Station,
Tq. Gangakhed, Dist. Parbhani.
2. Kiran W/o. Adinath Gutte,
Age : 26 years, Occ : Housewife,
R/o. Lecturer Colony, Gangakhed,
Tq. Gangakhed, Dist. Parbhani.

.... RESPONDENTS
(Res. No.2 Orig. Complainant)

Shri. G. A. Kulkarni h/f Shri. V. V. Deshmukh Advocate for the applicants
Shri. G. O. Wattamwar, APP for the respondent No. 1
Mrs. Varsha Ghanekar, Advocate (appointed) for respondent No. 2

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

DATED : 18-01-2021

ORAL JUDGMENT (PER :- M. G. SEWLIKAR, J.)

1. Rule. Rule made returnable forthwith. At the stage of admission, heard finally with the consent of all the parties.

2. By this application the applicants are challenging under Section 482 of the Code of Criminal Procedure the first information report and the charge-sheet filed after investigation.

3. Facts giving rise to this application are that respondent No. 2 married applicant No.1 on 11/05/2011. Applicant No. 2 is the father, applicant No. 3 is the mother, applicant No. 4 is the brother and applicant No. 5 is the sister of applicant No. 1.

4. It is alleged in the FIR lodged by respondent No. 2 that she was maintained well for a period of 5 years after marriage. Thereafter, at the instigation of applicant Nos. 2 to 4, applicant No. 1 started illtreating her abusing her. He used to doubt her chastity and used to abuse her. Applicant No. 5, whenever she came to her maternal place, used to humiliate respondent No. 2 on trivial grounds. Applicant Nos. 2 to 4 used to instigate applicant No. 1 to bring Rs. 7,00,000/- from her parents for purchasing a house. On these allegations FIR was lodged on 28/05/2019 on the basis of which offence under Sections 498A, 323, 506 read with Section 34 of the Indian Penal Code came to be registered.

5. Heard Shri. G. A. Kulkarni, learned counsel for the applicants, Shri. G. O. Wattamwar, learned APP for the State and Mrs. Varsha Ghanekar, learned counsel for respondent No. 2.

6. When this Court expressed its disinclination to grant any interim relief to applicant Nos. 1 to 3, learned counsel for the applicants Shri. Kulkarni sought permission to withdraw the application to the extent of applicant Nos. 1 to 3. Permission was accordingly granted.

7. So far as applicant Nos. 4 and 5 are concerned, they are not staying at the matrimonial place of respondent No. 2. Applicants have produced electricity bill which indicates that applicant No. 4 lives at Jalna. Admittedly, applicant Nos. 5 lives at Pune. She has produced Aadhar card which shows that applicant No. 5 lives at Yerwada, Pune. Moreover, allegations against applicant Nos. 4 and 5 are general in nature. No overt act is attributed against applicant Nos. 4 and 5. Against applicant No. 5 a vague and general allegation is made that whenever she came to her maternal place, she used to humiliate and looked down upon respondent No. 2 on trivial grounds. On the basis of these vague and general allegations it cannot be said that any cognizable offence is made out against applicant Nos. 4 and 5. Therefore, case of applicant Nos. 4 and 5 comes within the preview of conditions 1 and 3 as laid down by the Hon'ble Apex Court in the case of **State of Haryana Vs. Bhajanlal, AIR 1992, Supreme Court, 604**. In this view of the matter, we are inclined to quash the proceeding to the extent of applicant Nos. 4 and 5. Applicant Nos. 1 to 3 are the residents of Gangakhed, District Parbhani. Applicant Nos. 4 and 5 do not live with applicant Nos. 1 to

3.

8. In view of what is discussed hereinabove, following order is passed.

ORDER

1. Application of applicant Nos. 1 to 3 is disposed of as withdrawn.
2. Application of applicant Nos. 4 and 5 is allowed.
3. Relief is granted to them in terms of prayer clause 'A'.
4. Fees of the appointed counsel is quantified at Rs. 4,000/- and it should be paid through High Court Legal Services Authority, Sub-Committee at Aurangabad.
5. Rule made absolute in those terms.

[M. G. SEWLIKAR, J.]

[T. V. NALAWADE , J.]