

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

CRIMINAL APPLICATION NO. 1014 OF 2020

1. Deepak Dharma Borse (Sutar),
Age: 36 years, Occ. Labour,
R/o: Plot No.08/A, Gurukul Nagar 02,
Nandurbar.
2. Prakash Dharma Borse (Sutar),
Age: 39 years, Occ. Business,
R/o: Plot No.08/A, Gurukul Nagar 02,
Nandurbar.
3. Yogita Prakash Borse (Sutar),
Age: 30 years, Occ. Housewife,
R/o: Plot No.08/A, Gurukul Nagar 02,
Nandurbar.
4. Vinod Dharma Borse (Sutar),
Age: 32 years, Occ. Labour,
R/o: Plot No.08/A, Gurukul Nagar 02,
Nandurbar.
5. Sangita Vinod Borse (Sutar),
Age: 26 years, Occ. Housewife,
R/o: Plot No.08/A, Gurukul Nagar 02,
Nandurbar.
6. Lilabai @ Ranjanabai Dharma Borse (Sutar)
Age: 58 years, Occ. Housewife,
R/o: Plot No.08/A, Gurukul Nagar 02,
Nandurbar.
7. Ramesh Narayan Sutar,
Age: 68 years, Occ. Nil,
R/o: Lahan Maliwada, Shivajinagar,
Nandurbar.

8. Chandrakalabai @ Indubai Ramesh Sutar,
Age: 61 years, Occupation: Housewife,
R/o: Lahan Maliwada, Shivajinagar, Nandurbar.
9. Latabai Laxman Nikum,
Age: 46 years, Occupation: Housewife,
R/o: Vishava Karma Chowk, Gopal Nagar,
Pimpalner, Tq: Sakri, District: Dhule.
10. Laxman Muralidhar Nikum,
Age: 55 years, Occupation: Labour,
R/o. Vishava Karma Chowk, Gopal Nagar,
Pimpalner, Tq: Sakri, District: Dhule.

... **Applicants**

Versus

1. The State of Maharashtra
2. Roshni W/o Vijay Kapde,
Age: 29 years, Occupation: Household,
R/o: At Present: C/o: Shankar Rambhau Hire,
Raudwali, Near Ganpati Mandir,
Chitod Road, Dhule.

... **Respondents**

(Res. No.2 – Orig. First Informant)

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Advocate for Applicants : Mr. Joydeep Chatterji
APP for Respondent No.1/State : Mr. M.M. Nerlikar
Advocate for Respondent No.2 : Mr. Sanket Suryawanshi

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**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**
DATE : 14.01.2021

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 waive 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.PC. for quashing of the FIR (Crime) No.239 of 2016 under Section 498-A, 323, 504, 506 read with Section 34 of the I.P.C. registered with Dhule Police Station. Facts leading to this application are that respondent no.2-informant married one Vijay Narayan Kapde on 22.01.2016. This was the second marriage of respondent no.2 and third marriage of her husband Vijay Narayan Kapde .

3. Applicant nos.1, 2 and 4 are the nephews of husband of respondent no.2. Applicant no.5 is the niece of her husband, applicant no.7 is the elder brother of her husband, applicant no.9 is the sister of her husband and applicant no.3 is the wife of applicant no.2, applicant no.6 is the sister in law of respondent no.2, applicant no.8 is the wife of applicant no.7, applicant no.10 is the husband of applicant no.9.

4. It is alleged in the FIR that she was treated well for a period of two months after marriage. It is further alleged that respondent no.2 was in need of medical treatment. Instead of making medical treatment available to

her, her husband Vijay Kapde started saying she should go to her maternal place at Dhule for treatment. He would drop her at Dhule and would go back. The entire expenditure of treatment was borne by her parents. Applicant nos.1 to 10 always used to look down upon her. Whenever her maternal relatives came to her matrimonial place the applicants would say that respondent no.2 feeds them (maternal relatives) as her maternal relatives have nothing to eat at their home. She was finally turned out of the house. She waited for her husband to take her back for resumption for co-habitation but her husband did not come back. Therefore, she lodged the complaint with the Womens Redressal Cell, Dhule. Settlement was arrived at on 26.02.2019, 25.03.2019 and 23.04.2019 still her husband did not take her back. Therefore, she lodged this FIR against the husband and the applicants.

5. Heard Shri Joydeep Chatterji learned counsel for the applicants, Shri M.M. Nerlikar learned APP for the State and Shri Sanket Suryawanshi learned counsel for the respondent no.2.

6. Shri Chatterji submitted that vague and general allegations are made against the applicants. He argued that husband of respondent no.2 lives at Namaskar Colony, Nandurbar whereas all the applicants are staying at different places. In support of his contentions he has placed on record the

Aadhar card of all the applicants. He submitted that on the basis of vague allegations no cognizable offence is made out against the applicants.

7. Shri Nerlikar and Shri Suryawanshi submitted that specific allegations are made against the applicants.

8. We have carefully gone through the contents of the FIR and the papers annexed with the application. It appears that the main grievance of respondent no.2 is against her husband that too on account of his reluctance to provide medical treatment to her. So far as applicant nos.1 to 10 are concerned vague allegation is made that they subjected her to humiliation on one or the other count. Another allegation made is that she feeds her maternal relatives as they do not possess adequate means to feed themselves. These allegations are as vague as they could be. No specific act or role is attributed to any of the applicants. On the basis of these vague allegations, it is difficult to infer that any cognizable offence is made out against the applicants. Moreover, the applicants do not live with the husband of respondent no.2. Applicant no.1 is shown to be the resident of Gurukul Nagar, Nandurbar, applicant nos.2 and 3 in terms of Aadhar card are the residents of Gurukul Nagar, Nandurbar, so also applicant nos.4 to 6 are the residents of Gurukul Nagar, Nandurbar, so also applicant nos.4 to 6 are the residents of Gurukul Nagar, Nandurbar. Applicant nos.7 and 8 as per Aadhar

card are the residents of Shivaji Nagar, Nandurbar. In the FIR itself applicant nos.9 and 10 are shown to be the residents of Pimpalner, Tq. Sakri, District Dhule. Thus, this clearly shows that all the applicants are residing separately from husband of respondent no.2. Having regard to this and more particularly vague and general allegations made against the applicants by respondent no.2, it cannot be said that any cognizable offence is made out against the applicants. In this view of the matter, continuation of prosecution would be an exercise in futility. Therefore, we deem it just and proper to quash the FIR to the extent of applicants. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Relief is granted in terms of prayer clause-B. Rule made absolute in those terms.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]