

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

**CRIMINAL APPLICATION NO. 3522 OF 2019**

- 1) Pushpak s/o Chandmal Bafna,  
Age; 30 years, Occ; Private Service,
  - 2) Chandmal Mishrilal Bafna,  
Age; 61 years, Occ; Nil
  - 3) Sau. Ranjana w/o Chandmal Bafna,  
Age; 57 years, Occ; Household,  
Applicants No. 1 to 3 all r/o. Swanandi  
Apartment, Infront of Motiwala College,  
Shivshakti Colony, Gangapur Road,  
Nashik.
  - 4) Pooja Vinod Duggad,  
Age; 31 years, Occ; Private Service,
  - 5) Vinodkumar s/o Sureshkumar Duggad,  
Age; Major, Occ; Business,  
Applicants No. 4 and 5 are r/o; Udimain Road,  
Mithupalam, Dist. Coimbtore (Tamilnadu)
  - 6) Prakash Shantilal Abbad,  
Age; Major, Occ; Business,
  - 7) Sanjay Shantilal Abbad,  
Age; Major, Occ; Business,
- Applicants No. 6 & 7 are  
r/o; Abhona Tq. Kalwand, Dist Nashik.
- 8) Dhanashri Jitendra Pokharna,  
Age; Major, Occ; Household,
  - 9) Jitendra Deepchand Pokharna,  
Age; Major, Occ; Business,

Both r/o. Near Hanuman temple,

**...Applicants**

Moti Nagar, Latur.

**V E R S U S**

- 1) The State of Maharashtra,  
Through the Officer In-charge of  
City Police Station, Dhule,  
Dist. Dhule.
- 2) Ashwini w/o Pushpak Bafna,  
Age; 29 years, Occ; Household,  
R/o; Moti Nagar, Sakri Road, Dhule,  
Tq. & Dist. Dhule.

**..Respondents  
(Respondent No. 2  
is Original  
Complainant)**

.....  
Shri Balbhim R. Kedar, Advocate for the applicants  
Shri G.O. Wattamwar, learned A.P.P. for Respondent No. 1  
Smt. S.S. Suvarna. h/f Shri N.L.Chaudhary, learned Advocate for  
Respondent No. 2  
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**CORAM : T.V. NALAWADE &  
M.G. SEWLIKAR, JJ.**

**Date :- 03/02/2021**

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

1. Rule. Rule made returnable forthwith. With the consent of the parties, heard finally at the stage of admission.
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. 307 of 2019, registered with City Police

Station Dhule, Dist. 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 (1) (r) and 3 (1) (s) of the Prevention of Atrocities Act.

3. Facts giving rise to this application are that respondent No. 2 (the informant herein), wife of applicant No. 1, lodged an FIR alleging therein that her marriage with applicant No. 1 was solemnized on 11.9.2016. It is alleged in the FIR that she had made aware to the applicants that she is 'Mahar' by caste. The applicants are 'Marwadi' by caste. Despite that, applicant No. 1 with consent of his parents married respondent No. 2.

4. Applicant No. 2 is the father, applicant No. 3 is the mother and applicant No. 4 is the sister of applicant No. 1. Applicant Nos. 5 is the husband of applicant No. 4. Applicant No. 6 is the distant father-in-law of respondent No. 2. Applicant No. 7 is the son of applicant No. 6. Applicant No. 8 is the sister of applicant No. 1 and applicant No. 9 is the husband of applicant No. 8.

5. It is alleged in the FIR that the applicants maintained her well for some days after marriage. Thereafter, applicant No. 3 and applicant No. 4 did not allow her to enter kitchen because of the caste of respondent No. 2. Applicant No. 3 used to say that she would prepare food for applicant No. 1 and that respondent No. 2 should work like a maid. They

started saying that she should bring Rs. 5,00,000/- from her parents only then she would be allowed to stay in the family of 'Marwadies'.

6. It is further alleged that on 21.6.2017 she delivered a baby girl. On that count applicant No. 3 said to respondent No. 2 that since she had delivered a baby girl, she would be permitted in the house of applicant No. 3 only after respondent No. 2 brought Rs. 5,00,000/- from her parents. Thereafter, in the month of February, 2018 she was dropped at her maternal place. She went back for co-habitation on 6.6.2018 through intervention of the Women Cell at Nashik. She cohabited with applicant No. 1 till September, 2018. During this period, she realized that applicant No. 1 had illicit relations with one Rupali. When she questioned applicant No. 1, applicant No. 1 said that he had committed a mistake in marrying a girl from 'Mahar' caste. He started beating her and other applicants used to instigate him. She was driven out of house in the month of January, 2019. Since then she has been staying with her mother. On these allegations she lodged report on 07.08.2019 in City Police Station, Dhule, District Dhule, on the basis of which, F.I.R. for the offences punishable under Sections 498-A, 323, 504 506 read with Section 34 of the I.P.C. and under Section 3 (1) (r)(s) of the Prevention of Atrocities Act has been registered against the applicants.

7. Heard Shri B.R. Kedar, the learned counsel for the applicants, Shri G.O. Wattamwar, learned A.P.P. for Respondent No. 1 and Smt. S.S.

Suvarna. h/f Shri N.L.Chaudhary learned counsel for respondent No.2.

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

9. So far as applicant Nos. 4 to 9 are concerned vague allegations are made against applicant Nos. 4 to 9. No details of ill-treatment are furnished in the FIR. No specific act is attributed to any of the applicant Nos. 4 to 9. It is vaguely alleged that applicant No. 4 did not allow her to cook food. It is vaguely alleged that she was subjected to ill-treatment by applicant Nos. 4 to 9 by making unlawful demand of Rs. 5,00,000/- and consequent ill-treatment on account of its non fulfillment. On perusal of FIR it appears that entire allegations of ill-treatment are against applicant Nos. 1 to 3. In this view of the matter, no cognizable offence can be said to be made out against applicant Nos. 4 to 9. Even if allegations are taken at their face value to be correct, no conviction is possible against applicant Nos. 4 to 9 in terms of 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 against applicant Nos. 4 to 9 it would be nothing but an exercise in futility.

10. In view of this, it cannot be said that any cognizable offence is made out against applicant Nos. 4 to 9. Therefore, continuation of prosecution against them would be an abuse of process of law. Hence we are inclined to allow the application to the extent of applicant Nos. 4 to 9. In view of this following order is passed :

**ORDER**

- 1) Criminal Application of applicant Nos. 1 to 3 is disposed of as withdrawn.
- 2) Criminal Application of applicants No. 4 to 9 is allowed.
- 3) Relief is granted in favour of applicant No. 4 to 9 in terms of prayer clause "B".
- 4) Rule is made absolute in those terms.

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

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