

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

**CRIMINAL APPLICATION NO. 4057 OF 2019**

- 1) Madanrao s/o Sitaram Munde,  
Age; 70 years, Occ; Farmer,  
R/o; Nathra, Tq. Parali Vaijinath,  
Dist. Beed.
- 2) Madhuri w/o Madanrao Munde,  
Age; 65 years, Occ; Household,  
R/o; As above.
- 3) Mousami d/o Madanrao Munde,  
Age; 39 years, Occ; Household,  
R/o; As above.
- 4) Mahesh s/o Madanrao Munde,  
Age; 41 years, Occ; Service,  
R/o; Flat No. 103, Vinayak Vihar,  
Co-Operative Housing Society,  
Plot No. 57, Sector 16, Roadpali,  
Kalamboli.  
At Present Flat No. 103, Building No. 18,  
Celebration, KH-4, CHS, Sector 16/17  
Kharghar, New Mumbai.
- 5) Sunita w/o Mahesh Munde,  
Age; 39 years, Occ; Service,  
R/o; As above.
- 6) Minakshi w/o Dhananjay Garje,  
Age; 36 years, Occ; Household,  
R/o; 101, Harmony Apartment,  
Saint Francis Road, Vile-Parle,  
Mumbai.

**...Applicants**

**V E R S U S**

- 1) The State of Maharashtra,  
Through Police Inspector,  
Satara Police Station,  
Aurangabad, Tq. & Dist. Aurangabad.

- 2) Varsha w/o Mohan Munde,  
Age; 32 years, Occ; Household,  
R/o; Flat No. 2, Prism Apartment,  
Venus Society, Beed Bypass Road,  
Satara Parisar, Aurangabad.

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

.....  
Shri Ankush N. Nagargoje, Advocate for the applicants  
Shri G.O. Wattamwar, learned A.P.P. for Respondent No. 1  
Shri Prashant M. Nagargoje, learned Advocate for Respondent No. 2  
.....

WITH

### **CRIMINAL APPLICATION NO. 255 OF 2020**

- 1) Rupali Chetan Jain,  
Age; 35 years, Occ; Pvt. Service,  
R/o; Kendriya Vihar, CHSL-A/5,  
Flat No. 7, Sector No. 11,  
Kharghar Navi Mumbai.

**...Applicant**

### **V E R S U S**

- 1) The State of Maharashtra,
- 2) Varsha w/o Mohan Mundhe,  
Age; 32 years, Occ; Household,  
R/o; Vinnas Society,  
Prism Apartment, Beed bypass  
Satara, Aurangabad.

**..Respondents**

.....  
Shri Shail Subhedar h/f Shri Nilesh S. Ghanekar, Advocate for the applicant  
Shri G.O. Wattamwar, learned A.P.P. for Respondent No. 1  
Shri Prashant M. Nagargoje, 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. Both these applications are being disposed of by common order as they arise out of the same offence.
3. Both these applications are preferred by the respective applicants under Section 482 of the Code of Criminal Procedure, (Cr.P.C.) for quashing of the First Information Report, (F.I.R.) No. I-497 of 2017 registered with Police Station Satara, District Aurangabad for the offence punishable under Sections 498-A, 323, 504, 506 r/w 34 of Indian Penal Code (IPC) and Section 3 and 4 of Dowry Prohibition Act.
4. Facts giving rise to these applications are that respondent

No. 2 (the informant herein) Varsha married one Mohan Mundhe on 25.2.2016. Applicant No. 1 is the father-in-law, applicant No. 2 is the mother-in-law and applicant No. 3 is the unmarried sister-in-law and applicant No. 4 is the brother-in-law of respondent No. 2 Varsha. Applicant No. 5 is the wife of applicant No. 4 and applicant No. 6 is the married sister of husband of respondent No. 2.

5. It is alleged in the FIR that respondent No. 2 was maintained well for about one year after marriage. Thereafter, applicants started beating her on flimsy grounds. Her husband Mohan Mundhe used to speak on Cell phone even in the odd hours of night. When respondent No. 2 questioned her husband Mohan Mundhe, Mohan Mundhe said that he was in love with one Rupali Jain (applicant in application No. 255 of 2020). He also said that he wanted to marry Rupali Jain and he married against her wish with respondent No. 2 Varsha. When respondent No. 2 brought this fact to the notice of applicant Nos. 1 to 5, instead of reprimanding him, applicant Nos. 1 to 5 started abusing her and harassing her. They used to instigate husband of respondent No. 2 against respondent No. 2. Applicants used to keep her starved. On 1.8.2016 her husband Mohan Mundhe told her that he married said Rupali Jain in Siddhivinayak temple. He demanded Rs. 1,00,00,000/- from respondent No. 2 for deserting said Rupali Jain. Respondent No. 2 delivered a male child on 8.12.2016 but none of the applicants came to see her. On these allegations she lodged

report on 20.11.2017 in Police Station, Satara, District Aurangabad, on the basis of which, F.I.R. for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of IPC. and Section 3 and 4 of Dowry Prohibition Act came to be registered against applicants.

6. Heard Shri. A.N. Nagargoje, the learned counsel for the applicants in both the applications and Shri G.O. Wattamwar, learned A.P.P. for Respondent No. 1 and Shri P.M. Nagargoje, the learned counsel for respondent No.2 in Criminal Application No. 4057 of 2019 and Criminal Application No. 255 of 2020.

7. When this Court expressed its disinclination to grant any relief to applicant Nos. 1 and 2 in Criminal Application No. 4057 of 2019, Shri A.N. Nagargoje, learned counsel for the applicants sought permission to withdraw the application to the extent of applicant Nos.1 and 2. Permission was accordingly granted.

9. So far as applicant Nos. 3 to 6 in Criminal Application No. 4057 of 2019 are concerned vague allegations are made against them. It is vaguely alleged that when respondent No. 2 brought to the notice of applicants about love affair of husband of respondent No. 2 with Rupali Jain, then instead reprimanding husband of respondent No. 2, they abused respondent No. 2. It is further vaguely alleged that she was subjected to

ill-treatment on flimsy grounds. No specific act is attributed to any of the applicant Nos. 3 to 6. No details as regards the date and time are given. Therefore, on the basis of these vague allegations it is difficult to fathom that any cognizable offence is made out against applicant Nos. 3 to 6. Moreover, applicant No. 4 is resident of Roadpali, Kalamboli, Kharghar, New Mumbai. His wife applicant No. 5 also lives with him. Applicant No. 6 is the resident of Vile Parle, Mumbai. She is living with her husband. Above addresses of applicant Nos. 4 and 5 are mentioned in the charge-sheet itself. This clearly shows that applicant Nos. 3 to 6 have been roped in, despite they being resident of Mumbai. Applicant Nos. 1 and 2 are residents of Nathra, Tq. Parali Vaijinath, Dist Beed. As observed by the Hon'ble Supreme Court in the case of **Kans Raj V/s State of Punjab (AIR 2000 SC 2324)**, has observed that

*"there is a growing tendency to implicate near relatives of the husband in dowry cases".*

**It is further observed as under :**

*"In their over enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused".*

10. Having regard to this and vague and general allegations against applicant Nos. 3 to 6, it cannot be said that there is any possibility of conviction being recorded against applicant Nos. 3 to 6. Therefore,

continuation of prosecution against applicant Nos. 3 to 6 would be an abuse of process of law.

11. So far as, applicant in application No. 255 of 2020 is concerned, admittedly she is not the relative of the husband of respondent No. 2. She is a stranger to the family. Shri P.M.. Nagargoje, learned counsel for respondent No. 2 (informant herein) vehemently argued that there are specific allegations against applicant Nos. 3 to 6 in Criminal Application No. 4057 of 2019 and the applicant Rupali Jain in Criminal Application No. 255 of 2020. These allegations are specific. It is alleged in the FIR against applicant Rupali Jain that she had also beaten respondent No. 2 Varsha. However, on perusal of FIR nothing of this sort can be noticed. Proceeding under Section 498-A of IPC can be initiated against relatives of the husband and not against strangers to the family. Since applicant Rupali Jain is a stranger to the family, no prosecution under Section 498-A of IPC can be launched against her. In this view of the matter, continuation of prosecution against applicant Nos. 3 to 6 in Criminal Application No. 4057 of 2019 and the applicant Rupali Jain in Criminal Application No. 255 of 2020 would be an abuse of process of law. Their case is 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 against applicant Nos.

3 to 6 in Criminal Application No. 4057 of 2019 and the applicant Rupali Jain in Criminal Application No. 255 of 2020 it would be nothing but an exercise in futility.

12. In this view of the matter, it cannot be said that any cognizable offence is made out against applicant Nos. 3 to 6 in Criminal Application No. 4057 of 2019 and the applicant Rupali Jain in Criminal Application No. 255 of 2020. Therefore, continuation of prosecution against them would be an abuse of process of law. Hence we are inclined to allow above applications to the extent of applicant Nos. 3 to 6 in Criminal Application No. 4057 of 2019 and the applicant Rupali Jain in Criminal Application No. 255 of 2020. In view of this following order is passed :

**CRIMINAL APPLICATION NO. 4057 OF 2019**

**ORDER**

- 1) Criminal Application of applicant Nos. 1 and 2 is disposed of as withdrawn.
- 2) Criminal Application of applicant Nos. 3 to 6 is allowed.
- 3) Relief is granted in favour of applicant Nos. 3 to 6 in terms of prayer clauses "A and B".
- 4) Rule is made absolute in those terms.

**CRIMINAL APPLICATION NO. 255 OF 2020****ORDER**

- 1) Criminal Application is allowed.
- 2) Relief is granted in terms of prayer clause "B".
- 3) Rule is made absolute in those terms.

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

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