

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

CRIMINAL APPLICATION NO. 4183 OF 2019

1. Rajendra S/o Hiranman Kankute,
Age: 51 years, Occu. Agril,
R/o. A/957 Rmai, Ashok Nagar,
Vasamat, Tal. Vasamat,
Dist. Hingoli.
2. Hiranman S/o Kishanrao Kunkute,
Age: 79 years, Occ. Occu.,
R/o. A/957 Rmai, Ashok Nagar,
Vasamat, Tal. Vasamat,
Dist. Hingoli.
3. Suresh S/o Balaji Bansode,
Age: 29 years, Occ. Household,
R/o. Karkhana Road, Samrat Colony,
Vasamat, Tal. Vasamat,
Dist. Hingoli.
At Present. 8 Babu Mahatre Chawl,
Kopargaon Sima Mandap Kopar,
Tal. Kalyan, Dist. Thane.
4. Shital D/o Balaji Bansode,
@ Shital W/o Dhammanand Datar,
Age: 27 years, Occ: Household,
R/o. Mahatargaon Tal. Vasmat,
Dist. Hingoli.
5. Latabai D/o Hiranman Kankute,
Age: 52 years, Occ: Household,
R/o. A/957 Rmai, Ashok Nagar,
Vasamat, Tal. Vasamat,
Dist. Hingoli.

... **Applicants**

Versus

1. The State of Maharashtra
Through Harsul Police Station,
Aurangabad.
2. Diksha W/o Rajendra Kankute,
Age: 37 years, Occ: Household,
R/o. Hamukhatri Nagar, Harsul Parisar,
Aurangabad, Dist. Aurangabad.

... Respondents

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Advocate for Applicants : Mr. S.B. Choudhari
APP for Respondents/State : Mr. M.M. Nerlikar
Advocate for Respondent No.2 : Mr. S.M. Pachore
...

**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**
DATE : 12.01.2021

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. By this application the applicants are pressing into service the provisions of Section 482 of the Cr.P.C. for quashing of the FIR No.257 of 2019 under Section 498-A, 504, 506 read with Section 34 of the I.P.C. registered with Harsul Police Station, Aurangabad.

3. Narrations made in the FIR show that respondent no.2 married applicant no.1 on 25.11.2018 at Ashok Nagar, Vasamat, Tq. Vasamat, District Hingoli.

4. Applicant no.2 is the father, applicant no.3 is the cousin brother, applicant nos.4 and 5 are the cousin sisters of applicant no.1. After one month of the marriage applicant nos.4 and 5 started harassing respondent no.2. They got her pregnancy test done against her wish and thereafter said to her that she would never get pregnant. Both of them said that if she wanted to stay at her matrimonial place she should bring Rupees Two Lakhs from her brother. She was thereafter turned out of the house. When brother of respondent no.2 called up applicant no.1, the applicant no.1 said that relative of applicant no.5 had passed away. Therefore, her brother had gone to attend the funeral on 13.01.2019. At that time, applicants abused the brother and mother of respondent no.2 and demanded Rupees Two Lakhs for maintaining her. Thereafter, respondent no.2 lodged the report in the police station on 23.10.2019.

5. Heard Shri S.B. Choudhari learned counsel for the applicants , Shri M.M. Nerlikar learned APP for the State and Shri S.M. Pachore learned counsel for the respondent no.2.

6. When we expressed our disinclination to grant any relief to applicant nos.1, 2 and 5, learned counsel Shri Choudhari sought permission to withdraw the application to their extent. Permission was accordingly granted.

7. On perusal of the charge-sheet filed during the pendency of this application, it is seen that applicant no.3 is the resident of Babu Mahatre Chawl, Kopargaon Sima Mandap Kopar, Tal. Kalyan, Dist. Thane and applicant no.4 is the resident of Mahatargaon, Tal. Vasamat, District Hingoli. Charge-sheet further shows that applicant nos.1, 2 and 5 are the residents of Ashok Nagar, Vasamat Tq. Vasamat, District Hingoli. This clearly shows that applicant nos.3 and 4 are not staying with applicant nos.1, 2 and 5. The only allegation made against applicant nos.3 and 4 is that they got pregnancy test of respondent no.2 done against her will and stated that she would never beget any child and said that she should bring Rupees Two Lakhs from her brother. These allegations are sans of any details. No date, no time is mentioned in the FIR. No overt act is attributed to any of the applicant nos.3 and 4. Charge-sheet itself shows that applicant nos.3 and 4 are residing at far off places. Having regard to this and in view of vague and general allegations it cannot be said that any cognizable offence is made out against the applicant nos.3 and 4. Therefore, continuation of prosecution would be nothing but an

exercise in futility. Even if the allegations made in the FIR are accepted at their face value there is no possibility of conviction of applicant nos.3 and 4. The Hon'ble Supreme Court has consistently held that there is growing tendency to implicate all the relatives of the husband even if they are residing at far off places. In the case at hand also applicant nos.3 and 4 are living at different places still they are implicated in these offences. In view of this, we are inclined to quash the FIR to the extent of applicant nos.3 and 4. Hence the following order is passed:

ORDER

- I) Application of applicant nos.1, 2 and 5 is disposed of as withdrawn.
- II) Application of applicant nos.3 and 4 is allowed. Relief is granted in terms of prayer clause-B-1. Rule made absolute in those terms.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]