

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (APL) NO. 224 OF 2012

1. Vijay s/O. Motilal Joshi,
Aged 40 years, Occ. : Bhel Bhandar,
2. Sau. Sangita W/o. Vijay Joshi,
(Before Marriage Ku. Sangita D/o.
Ratanlalji Tiwari)
Aged : 35, Occ.: House hold.
3. Vinod S/o.Motilal Joshi,
Aged : 35, Occu.: Bhel Bhandar,

No. 1 to 3 R/o. Guru Nagar, Near Janata
High School, Ward No.5, Wani, Tq. Wani,
Dist. Yavatmal.
4. Rajesh S/o. Balaji Rajurkar,
Aged 40 years, Occu.: Electrician,
R/o. Near ICICI Bank, Kannamwar Chowk,
Wani, Tq. Wani, District : Yavatmal.

.... **APPLICANTS.**

// **VERSUS** //

1. State of Maharashtra,
Through P.S.O.
Police Station Wani, Dist. Yavatmal
Vide Crime No.203/2011.
2. Kalpana W/o. Kunjbihari Sharma,
Age 45, Occ: House Hold,
R/o. Kunjbihari Sharma,
Qtr. No.D-45, Sirpur-Kagaznagar,
Dist. Aadilabad A.P. Pin Code 504296.

.... **NON-APPLICANTS.**

Shri A.K.Bhangde, Advocate for Applicants.
Shri T.A.Mirza, A.P.P. for Non-applicant No.1/State.
None for Non-applicant No.2.

CORAM : Z.A.HAQ AND AMIT B. BORKAR, JJ.
DATED : JANUARY 04, 2021.

ORAL JUDGMENT : (Per : Z.A.Haq, J.)

1. Office note shows that report of service of notice of this Criminal Application on non-applicant No.2(informant) is awaited. Docket shows that the notice of this Criminal Application was served on the non-applicant No.2(informant) before Rule came to be issued, however, the report of service of notice of this Criminal Application on the non-applicant No.2 after issuance of Rule is awaited.

2. In our view, once the notice is served on a party, it is not required that repeated invitations should be sent by the Court to the non-applicants/respondents. The purpose of service of notice on the party/parties is that the concerned party/parties should have intimation about pendency of the matter against it before this Court. Hence, we treat that the non-applicant No.2(informant) is aware about pendency of these proceedings and proceed further. One more fact, which is required to be stated is that the interim order is operating in these proceedings since 4th May 2012.

3. Heard learned Advocate for the applicants/accused and the learned A.P.P. for the non-applicant No.1/State.

4. By this application under Section 482 of the Code of Criminal Procedure, the applicants/accused have prayed that the F.I.R. registered against them with the non-applicant No.1-Police Station for the offences punishable under Sections 394 and 323 of the Indian Penal Code be quashed. The facts on record show that the non-applicant No.2(informant) lodged report alleging that because of the matrimonial dispute between the applicant and Sau. Kalavati Vijaykumar Joshi (wife of applicant No.1), some dispute arose on 4th January 2011 and the informant was assaulted by Rajesh Rajurkar (applicant No.4) which resulted in loss of three teeth of the informant. In the report it is alleged that the applicant No.2-Sau. Sangeeta took away Rs.1,000/- from the purse of the informant and also snatched Mangalsutra worth about Rs.20,000/- and gold bangles worth about Rs.40,000/- and for this the applicant No.4-Rajesh and applicant No.3-Vinod also were involved. Initially, the non-applicant No.1-Police Station Officer had not registered F.I.R., however, the non-applicant No.2 approached this Court vide Criminal Writ Petition No. 517 of 2011 in which an order came to be passed on 15th November 2011 recording the submission made on behalf of the non-applicant No.1-Police Station Officer that the F.I.R. would be registered. Accordingly, the First Information Report came to be registered against the applicants on 17th November 2011.

5. With the assistance of the learned Advocate for the applicants and the learned A.P.P., we have examined documents placed on record. Along with the final report filed by the Investigating Agency, a copy of medical examination report of the informant is placed on record which shows that, according to the history of the patient she was assaulted by Rajesh Rajurkar (applicant No.4) about 10 months back, which resulted in some injury. The medical examination report further shows that the center teeth were not found at the time of examination.

6. Undisputedly, there has been earlier report by the applicant No.1-Vijay against his wife Sau. Kalavati and against Radheshyam Ramratan Sharma and Kunjbihari Ramratan Sharma (brothers of Sau. Kalpana) and Kunjbihari Ramratan Sharma (husband of present non-applicant No.2-informant).

7. Record further shows that the proceedings under Section 13(1) (i-b) of the Hindu Marriage Act were filed by applicant No.1-Vijay against his wife Sau. Kalavati.

8. Considering the material on record, we find that there is no explanation by the non-applicant No.2-informant for the delay of more than 10 months in pursuing the matter with the Police Authorities. Undisputedly, there being history of matrimonial litigation, we have examined the material on record with circumspection and we find that the accusations against the

applicants are not sufficient to prosecute them for the offences alleged against them.

9. Hence, the following order:

First Information Report bearing Crime No.203 of 2011, registered with Police Station, Wani, District : Yavatmal against the applicants is quashed.

Rule is made absolute accordingly.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)

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