

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

CRIMINAL APPLICATION (APL) NO. 286 OF 2015

- 1] Ramakant S/o Surybhan Dhundale,
Age : 64 years, Occ :Agriculture,
R/o Yesh Medical D.P. road Chikhali,
Tq. Chikhali Dist. Buldhana
- 2] Sau.Shindubai W/o Ramakant
Dhundale,
Age : 60 years, Occ :Household,
R/o as above.
- 3] Vijayshree W/o Milind Hemke
Age : 35 years, Occ : Service,
R/o Sr.No.1, Plot No.SDC 6,
Flat No.302,
Shubh Complex Apartment
Indrayani Nagar,
Bhosari, Pune.
- 4] Milind S/o Wamanrao Hemke
Age : 37 years, Occu : Service,
R/o as above.
- 5] Sharda W/o Nivruti Munhe
Age : 32 Years, Occ. Service,
R/o Beed Dist. Beed
At present Pimpri Chinchwad,
Municipal Corporation,
Yeshwanatrao Smuti Hospital
Quarter's Pune.
- 6] Vishal S/o Ramakant Dhundale,
Age : 30 years, Occu :Agriculture,
R/o Yesh Medical D.Proad Chikhali,
Tq. Chikhali Dist. Buldhana
- 7] Vishwas S/o Suryabhan Dhundale,
Age 60 years, Occu. Agriculture,
R/o Chikhali,
Tq. Chikhali, Dist.Buldhana.

Ward no.2, Gandhi Nagar,H.No.271,
Chikhali, Tq.Chikhali, Dist. Buldhana.

- 8] Ashabai w/o Vishwas Dhundale
Age 55 years, Occu. Housewife,
R/o Chikhali, Tq. Chikhali,
Dist.Buldhana.Ward no.2,
Gandhi Nagar,H.No.271,
Chikhali, Tq.Chikhali, Dist. Buldhana.
- 9] Vaibhav S/o Vishwas Dhundale
Age 29 years, Occu. Service,
R./o As above.
At Present Residing at Goa for
Service purpose.
Ward no.2, Gandhi Nagar,H.No.271,
Chikhali, Tq.Chikhali, Dist. Buldhana
10. Gaurav S/o Vishwas Dhundale
Age 24 years, Occu :Education
R/o As above, At present residing
Ward no.2, Gandhi Nagar,H.No.271,
Chikhali, Tq.Chikhali, Dist. Buldhana
11. Vishali D/o VishwasDhundale
Age 25 years, Occ. Education,
Ward no.2, Gandhi Nagar,H.No.271,
Chikhali, Tq.Chikhali, Dist. Buldhana
R/o As above. At present residing at
Pune for Education
12. Ambadas S/o Balwanta Kapase,
Age : 70 years, Occu : Retired
R/o Sunderkhed Tq. Dist. Buldhana.
Vaijinath Nagar, Chikhli Road,
Buldhana, Tq. Dist.Buldhana

.. APPLICANTS

.V E R S U S..

1. The State of Maharashtra,
Though Chikhali Police Station,

Tq.Chikhali Dist Buldhana.
Copy to be served on G.P. Office,
High Building, Nagpur.

2. Sonal W/o Pavan Dhundale
Age : 29 years, Occ. Housewife
R/o C/o Narayanrao Kale
At Shelsur, Tq. Chikhali
Dist. Buldhana.

. . NON-APPLICANTS

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Shri K.A. Ingle, Advocate for the applicant (Absent).

Shri H.D. Futane, Advocate for respondent no.2 (Absent).

Shri T.A.Mirza, APP for the non-applicant no.1.

**CORAM: Z. A. HAQ AND
AMIT B. BORKAR, JJ.
DATED: 26-02.2021**

JUDGMENT (PER : AMIT B. BORKAR, J.) :

1. By this application under Section 482 of the Code of Criminal Procedure, 1973, the applicants, who are relatives of husband of the non-applicant no.2 are roped in as accused in First Information Report No.77/2014 for offences punishable under Sections 498-A, 504, 506 read with Section 34 of the Indian Penal Code and consequent Charge-sheet No.144/2014 filed on 7.7.2014 with the Judicial Magistrate First Class, Chikhali.

2. The First Information Report came to be registered against the applicants with the accusations that the applicants in

connivance with each other physically and mentally harassed the non-applicant no.2 as she refused to transfer two acres of agricultural land in the name of the applicants and refused to pay an amount of Rs.50,000/- towards construction of house. It is alleged that the marriage between the non-applicant no.2 and her husband took place on 15.4.2009. It is alleged that the applicants demanded various amounts from the non-applicant no.2 for purchase of plot.

3. The Charge-sheet came to be filed against the applicants on 7.7.2014 in the Court of Judicial Magistrate First Class, Chikhali. The applicants have, therefore, challenged registration of the First Information Report and filing of the charge-sheet against them. This Court, on 01.07.2015 issued notice to the non-applicants and on 17.10.2015 issued Rule and continued interim relief qua present applicants.

4. The non-applicant no.1 has filed reply and stated that the husband and father-in-law of the non-applicant no.2 caused ill-treatment to her for non-payment of Rs.50,000/- for purchasing of motorcycle and also demanded an amount of Rs.20 lakhs for purchase of plot. On refusal, the non-applicant no.2 was ill-treated

and beaten by the applicants. It is stated that since charge-sheet is filed the applicants have alternative remedy of filing of discharge application. The non-applicant no.2 has not filed reply.

5. The Advocates for both the parties were absent when the matter was called in the first session. The matter was therefore, kept in the afternoon session and is again called at 4.00 p.m. but neither the Advocate for the applicant and Advocate for the non-applicant no.2 are present. Since the application is of the year 2015, we are proceeding to decide the application on merits.

6. We have carefully considered the allegations in the First Information Report and the statements of the witnesses in the charge-sheet. On perusal of the First Information Report, it appears that the allegations against the applicants, most of whom, are distant relatives of the husband and are residing at different places, omnimous allegations are made against them.

7. The Hon'ble Apex Court in the case of ***Kailash Chandra Agrawal Vs. State of U.P. and others*** reported in ***(2014) 16 SCC 551*** has observed that tendency, which has been developed for roping in all relatives of the husband by the wife in the matter of dowry deaths or such type of similar offences, in an over enthusiasm and

anxiety to seek conviction needs to be deprecated. The Hon'ble Apex Court in the case of *K. Subba Rao Vs. State of Telangana* reported in **2018 (14) SCC 452**, has observed that relatives of the husband should not be roped in on the basis of vague allegations unless specific instances of their involvements are set out.

8. The parameters of exercise of power conferred on this Court under Section 482 of the Code of Criminal Procedure being settled, in order to prevent abuse of process of any Court and secure the ends of justice, this power can be exercised, then there is no doubt in our mind that this is the case where this power needs to be exercised.

9. On overall consideration of the evidence and circumstances of the present case and in the light of the above judgments of the Apex Court in the cases of *Kailash Chandra Agrawal (supra)* and *K. Subba Rao Vs. State of Telangana (supra)*, we are satisfied that continuance of present proceedings against the applicants would amount to abuse of process of Court. Hence, we pass the following order:

ORDER

- (i) Criminal Application (APL) No.286/2015 is allowed.
- (ii) F.I.R. No.77/2014 dated 29.3.2014 and the Charge-

sheet bearing No.144/2014 dated 7.7.2014 filed with the Judicial Magistrate First Class, Court No.2 Chikhali and the proceedings of Regular Criminal Case No.218/2014 pending in the Court of Judicial Magistrate First Class, Chikhali District Buldana for offences punishable under Sections 498-A, 504, 506 read with Section 34 of the Indian Penal Code against the applicants are quashed and set aside.

Rule is made absolute in the above terms.

JUDGE

JUDGE

Ambulkar